

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

KRYSTAL YBARRA  
Plaintiff

v.

DANIEL JOSEPH SCHMIESING and  
STANDARD AERO AVIATION  
HOLDINGS, INC.  
Defendants

§  
§  
§  
§  
§  
§  
§  
§

CASE NO. 5:22-cv-230

**DEFENDANT STANDARD AERO AVIATION HOLDINGS, INC.'S  
INDEX OF STATE COURT PAPERS IN CAUSE NO. 2021CI09062**

1. Docket Sheet
2. Plaintiff's Original Petition
3. Jury Fee Paid
4. Request for Service and Process
5. Citation for Daniel Joseph Schmiessing
6. Original Answer of Daniel Joseph Schmiesing
7. Certificate of Written Discovery
8. Third Party Action
9. Certificate of Written Discovery
10. Citation
11. Return of Service - Successful
12. Certificate of Written Discovery
13. Certificate of Deposition of C/R Consultants in Pain Medicine (Billing) and Notice of Delivery

14. Certificate of Deposition of C/R Consultants in Pain Medicine - Medical Records and Diagnostic Imaging
15. Agreed Docket Control Order
16. Request for Copy of Conformed Agreed Docket Control emailed 12/6/2021
17. Certificate of Deposition of C/R Medport Billing
18. Certificate of Deposition of C/R Frank K. Kuwamura, III, M.D. – Medical Records and Diagnostic Imaging
19. Certificate of Deposition of C/R Frank K. Kuwamura, III, M.D. (Billing Records)
20. Certificate of Deposition of C/R ChiroCare Injury Rehab – Medical Records and Diagnostic Imaging
21. Intention to take Deposition of C/R American Health Imaging (Corporate)(Billing Records)
22. Motion for Independent Medical Examination
23. Motion to Set Motion for Independent Medical Exam
24. Certificate of Deposition of C/R Phase 4 Physiotherapy (Billing)
25. Certificate of Deposition of C/R American Health Imaging (Medical Records and Diagnostic Imaging)
26. Certificate of Deposition of C/R ChiroCare Injury Rehab (Billing Records)
27. Rule 11 Agreement
28. Setting on Motion to Enter/Sign
29. Plaintiff's First Amended Petition
30. Request for Service of Process
31. Citation StandardAero Aviation Holding, Inc.
32. Certificate of Written Discovery
33. General Jury Trial Notice
33. Answer of StandardAero Aviation Holding, Inc.

## 408th District Court

## Case Summary

Case No. 2021Cl09602

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING  
ET AL

§  
§  
§

Location: 408th District Court  
Judicial Officer: 408th, District Court  
Filed on: 05/13/2021

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Case Information

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Case Type: MOTOR VEHICLE  
ACCIDENT

Case Status: 05/13/2021 Pending

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## Assignment Information

## Current Case Assignment

Case Number 2021Cl09602  
Court 408th District Court  
Date Assigned 05/13/2021  
Judicial Officer 408th, District Court

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## Party Information

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>YBARRA, KRYSTAL</b>	<b>WYATT, PAULA A</b> <i>Retained</i>
<b>Defendant</b>	<b>SCHMIESING, DANIEL JOSEPH</b>	<b>CLICK, TAMMY BRUCH</b> <i>Retained</i>
	<b>SCHMIESSING, DANIEL JOSEPH</b>	<b>DURBIN, JENNIFER GIBBINS</b> <i>Retained</i>
	<b>STANDARD AERO AVIATION HOLDING INC</b>	<b>DURBIN, JENNIFER GIBBINS</b> <i>Retained</i>

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## Events and Orders of the Court

05/13/2021 New Cases Filed (OCA)  
05/13/2021 PETITION  
05/13/2021 REQUEST FOR SERVICE AND PROCESS  
05/14/2021 JURY FEE PAID  
05/24/2021 **Citation**  
SCHMIESSING, DANIEL JOSEPH  
Unserved  
07/16/2021 ORIGINAL ANSWER OF  
DANIEL JOSEPH SCHMIESING  
08/13/2021 CERTIFICATE OF WRITTEN DISCOVERY  
08/13/2021 THIRD PARTY ACTION  
08/16/2021 CERTIFICATE OF WRITTEN DISCOVERY  
08/27/2021 **Citation**

408th District Court

Case Summary

Case No. 2021CI09602

09/23/2021 RETURN OF SERVICE - SUCCESSFUL

11/17/2021 CERTIFICATE OF WRITTEN DISCOVERY

11/18/2021 CERTIFICATE OF DEPOSITION OF  
*C/R CONSULTANTS IN PAIN MEDICINE (BILLING) AND NOTICE OF DELIVERY*

11/18/2021 CERTIFICATE OF DEPOSITION OF  
*CR, Consultants In Pain Medicine - Medical Records and Diagnostic Imaging*

11/30/2021 DOCKET CONTROL ORDER (Judicial Officer: GONZALES, NORMA)  
(AGREED)

12/01/2021 REQUEST FOR  
*copy of Conformed Agreed Docket Control Order EMAILED 12-6-2021*

12/17/2021 CERTIFICATE OF DEPOSITION OF  
*C/R MEDPORT BILLING (BILLING)*

12/17/2021 CERTIFICATE OF DEPOSITION OF  
*C/R rank K. Kuwamura, III, M.D. - Medical Records and Diagnostic Imaging*

12/17/2021 CERTIFICATE OF DEPOSITION OF  
*C/R FRANK K. KUWAMURA III M.D. (BILLING RECORDS)*

12/28/2021 CERTIFICATE OF DEPOSITION OF  
*C/R ChiroCare Injury Rehab - Medical Records and Diagnostic Imaging*

12/28/2021 INTENTION TO TAKE DEPOSITION OF  
*C/R American Health Imaging (Corporate) (Billing Records)*

12/30/2021 MOTION FOR  
*Independent Medical Examination*

12/30/2021 MOTION TO SET  
*MOTION FOR INDEPENDENT MEDICAL EXAMINATION*

01/05/2022 CERTIFICATE OF DEPOSITION OF  
*C/R Phase 4 Physiotherapy (BILLING)*

01/05/2022 CERTIFICATE OF DEPOSITION OF  
*C/R American Health Imaging (Medical Records and Diagnostic Imaging)*

01/05/2022 CERTIFICATE OF DEPOSITION OF  
*C/R ChiroCare Injury Rehab (Billing Records)*

01/06/2022 RULE 11 AGREEMENT

01/07/2022 **SETTING ON MOTION TO ENTER/SIGN** (8:30 AM)

02/01/2022 AMENDED PETITION

02/01/2022 REQUEST FOR SERVICE AND PROCESS

02/10/2022 **Citation**  
STANDARD AERO AVIATION HOLDING INC  
Unserved

02/23/2022 CERTIFICATE OF WRITTEN DISCOVERY

03/04/2022 ORIGINAL ANSWER OF  
*STANDARD AERO AVIATION HOLDINGS, INC.*

09/19/2022 **C GENERAL JURY TRIAL** (8:30 AM) (Judicial Officer: SALINAS, LAURA)



**CAUSE NO. 2021CI09602**

**KRYSTAL YBARRA**  
*Plaintiff*

**VS.**

**DANIEL JOSEPH SCHMIESSING**  
*Defendant*

IN THE DISTRICT COURT

## 408TH JUDICIAL DISTRICT

**BEXAR COUNTY, TEXAS**

**DEFENDANT STANDARDAERO AVIATION HOLDINGS, INC.'S ORIGINAL ANSWER**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES STANDARDAERO AVIATION HOLDINGS, INC., Defendant in the above styled and numbered cause, and files this its Original Answer. Defendant would respectfully show the Court as follows:

**l.**

Defendant, STANDARD AERO AVIATION HOLDINGS, INC., generally denies the allegations contained in Plaintiff's Amended Original Petition and any amendments thereto, and demands strict proof thereof by a preponderance of the credible and believable testimony and evidence.

## II.

Defendant, STANDARD AERO AVIATION HOLDINGS, INC., specifically states that it is not a proper party as it is not the employer of Daniel Schmiesing.

### III.

Defendant affirmatively pleads and specially alleges that Plaintiff's recovery for medical expenses, if any, is limited and/or reduced pursuant to §41.0105 of the Texas Civil Practice & Remedies Code.

IV.

Defendant affirmatively pleads and alleges that Plaintiff's claimed injuries are the result, either in whole or in part, of a pre-existing condition or injury which is the cause, either in whole or in part, of Plaintiff's claimed damages.

WHEREFORE, PREMISES CONSIDERED, Defendant STANDARD AERO AVIATION HOLDINGS, INC. prays that Plaintiff takes nothing by way of her pleading and go hence without day. Defendant STANDARD AERO AVIATION HOLDINGS, INC. further prays that judgment be entered in favor of Defendant and against Plaintiff for damages, if any, sustained by Plaintiff, for costs of court and for such other and further relief to which he may show himself justly entitled, whether at law or in equity.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C.  
6243 IH 10 West, 7th Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
Telephone No. (210) 734-7488  
Telecopier No. (210) 738-8036



---

JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

***\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)***

**ATTORNEYS FOR DEFENDANT  
STANDARD AERO AVIATION HOLDINGS,  
INC.**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing ***Defendant's Original Answer***, was this the 4th day of March, 202, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt


Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218



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JENNIFER GIBBINS DURBIN

TAMMY BRUCH CLICK

#2236258/2331 388/TBC/du

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 62318181  
 Status as of 3/4/2022 4:45 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	3/4/2022 2:50:09 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	3/4/2022 2:50:09 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	3/4/2022 2:50:09 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	3/4/2022 2:50:09 PM	SENT
Debbie Uhl		duhl@asdh.com	3/4/2022 2:50:09 PM	SENT
Tonya McCall		TMcCall@asdh.com	3/4/2022 2:50:09 PM	SENT



**CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing **Defendant Daniel Joseph Schmiesing's Certificate of Written Discovery** was on this the 23rd day of February 2022, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

**Attorneys for Plaintiff**



JENNIFER GIBBINS DURBIN

TAMMY BRUCH CLICK

#2232568/2331-388/TBC/du

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 62013766  
 Status as of 2/24/2022 4:48 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	2/23/2022 2:11:48 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	2/23/2022 2:11:48 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	2/23/2022 2:11:48 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	2/23/2022 2:11:48 PM	SENT
Debbie Uhl		duhl@asdh.com	2/23/2022 2:11:48 PM	SENT
Tonya McCall		TMcCall@asdh.com	2/23/2022 2:11:48 PM	SENT







**CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing ***Defendant Daniel Joseph Schmiesing's Certificate of Written Discovery*** was on this the 17th day of November 2021, forwarded via e-service to:

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

***Attorneys for Plaintiff***

  
JENNIFER GIBBINS DURBIN  
TAMMY BRUCH CLICK

#2192700/2331-388/TBC/du

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 59270944  
 Status as of 11/19/2021 9:40 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	11/17/2021 5:21:35 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	11/17/2021 5:21:35 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	11/17/2021 5:21:35 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	11/17/2021 5:21:35 PM	SENT
Debbie Uhl		duhl@asdh.com	11/17/2021 5:21:35 PM	SENT
Tonya McCall		TMcCall@asdh.com	11/17/2021 5:21:35 PM	SENT

**CAUSE NO. 2021CI09602**

**KRYSTAL YBARRA**  
*Plaintiff*

**VS.**

**DANIEL JOSEPH SCHMIESSING**  
*Defendant*

**www.mca.com**

IN THE DISTRICT COURT

## 408TH JUDICIAL DISTRICT

**BEXAR COUNTY, TEXAS**

**DEFENDANT DANIEL JOSEPH SCHMIESING'S MOTION FOR  
INDEPENDENT MEDICAL EXAMINATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant in the above styled and numbered cause and files this his Motion pursuant to Rule 204 of the Texas Rules of Civil Procedure requesting that the Court require the Plaintiff Krystal Ybarra to submit to an independent medical examination and in support of his motion, Defendant would show the following.

1.

The Plaintiff, Krystal Ybarra filed this personal injury lawsuit in which she alleges she received severe bodily injuries including permanent injuries to her cervical spine, thoracic spine, lumbar spine, both shoulders, her arms, and legs. Attached as *Exhibit “A”* to this Motion is the Plaintiff’s Original Petition. Ms. Ybarra is seeking monetary damages including medical expenses in the past; future medical expenses; lost wages; physical impairment in the past and in the future; disfigurement in the past and in the future; and physical pain and mental anguish in the past and in the future. In her petition, Ms. Ybarra asserts she is seeking monetary relief over \$250,000 but not more than \$1 million.

## 11.

Plaintiff contends that she suffered severe personal injuries resulting from a minor automobile accident that occurred on May 22, 2020 in Bexar County, Texas. Plaintiff

alleges that as a result of the automobile accident she has incurred past medical expenses in the amount of \$55,982.45. All of Ms. Ybarra's medical treatment has been provided pursuant to letters of protection providing for payment from her personal injury lawsuit. Among other medical professionals, the Plaintiff sought treatment from Dr. Frank Kuwamura at MD Spine Care. Dr. Kuwamura is an orthopedic surgeon. Attached as *Exhibit "B"* is the medical record affidavit, and associated medical records from Dr. Kuwamura at MD Spine Care. As the record indicate Dr. Kuwamura believes Ms. Ybarra may need cervical and lumbar surgery which he contends is necessary because of injuries Ms. Ybarra received in the minor automobile accident on May 22, 2020. Dr. Kuwamura has provided a medical narrative in which he opines that the necessary, in his opinion, microscopic laminectomy/discectomy at L5/S1 with stem cell treatment is estimated to cost \$131,230.00. Also provided is a cervical cost estimate, of \$228,000.00 for Dr. Kawamura's recommended anterior cervical discectomy with artificial disc replacement at C6/C7.

## II.

As Plaintiff has put into controversy her physical condition, Defendant requests and independent medical examination by Dr. Anton Jorgenson. Defendant would show that Dr. Anton Jorgensen is an orthopedic surgeon licensed by the American Board of Orthopedics. Dr. Jorgensen is in the private practice of orthopedic surgery. Dr. Jorgensen has experience in treating patients with surgically treatable disorders of the spine. Attached as *Exhibit "C"* is the curriculum vitae of Dr. Anton Jorgensen.

### III.

Defendant requests that the Court order the Plaintiff to submit to the medical examination by Dr. Jorgensen in order to determine the existence, nature, extent and cause of Ms. Ybarra's alleged injuries and to evaluate her current clinical condition, and determine, if any, Ms. Ybarra's long-term prognosis related to the alleged injury. The examination will also help to evaluate Ms. Ybarra's current ability to engage in the activities of daily living and her impairment level as well as her current ability to perform in the workforce. The examination will involve the taking of a medical history from Ms. Ybarra, avoiding discussing any liability issues, and specifically discussing with Ms. Ybarra the onset of pain, the intensity of the pain and the timeline of the pain. It will also consist of testing of the range of motion of his spine and his functioning, strength, sensation, reflexes, balance, etc. The examination by Dr. Jorgensen will generally be of the same type discussed in the attached medical records of Dr. Kuwamura. The examination will consist of testing such as the assessment generally performed by Dr. Jorgensen on every patient which he sees during the usual course of his orthopedic surgical practice.

### IV.

Ms. Ybarra has placed into controversy her physical condition, and the necessity and costs for her medical treatment both in the past and in the future, if any. The controversy relates to Ms. Ybarra's physical condition, including her cervical, thoracic, and lumbar spine, her shoulders, and upper extremities, and her lower extremities. Without the requested independent medical examination, Defendant will be severely hampered in his defense because of the inability to evaluate the claimed injuries and damages of Plaintiff. Defendant is unaware of any other less intrusive means to obtain

the information regarding the Plaintiff's physical injuries and continuing physical impairments alleged to have resulted from the motor vehicle accident in question.

**V.**

Dr. Anton Jorgenson is available on the following dates and times to conduct the independent medical examination:

1/12 4:00p.m. Westover Hills Office  
1/17 9:00 a.m. or 10:30 a.m. Medical Center Office  
1/18 9:00 a.m. or 10:30 a.m. Medical Center Office  
1/19 4:00p.m. Westover Hills Office  
1/24 9:00 a.m. or 10:30 a.m. Medical Center Office  
1/25 9:00 a.m. or 10:30 a.m. Medical Center Office  
1/26 4:00p.m. Westover Hills Office

**VI.**

Defendant's counsel requested an agreement regarding the IME from Plaintiff's counsel. Defendant's counsel correspondence, attached as *Exhibit "D,"* requesting the agreement and terms for the independent medical examination. Via email, Plaintiff's counsel advised they did not agree to the independent medical examination. See *Exhibit "E"*. Therefore, this matter is presented to the Court for determination.

WHEREFORE, PREMISES CONSIDERED, Defendant requests that his Motion to Compel Independent Medical Examination be in all things granted and that the Plaintiff, Krystal Ybarra, be ordered to submit to a medical examination at the office of Dr. Anton Jorgensen on one of the days provided, and Defendant requests for such other and further relief to which Defendant may show himself justly entitled, whether at law or in equity.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C.  
6243 I.H. 10 West, 7<sup>th</sup> Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
(210) 734-7488 (Telephone)  
(210) 738-8036 (Facsimile)



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JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

**\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)**

**ATTORNEYS FOR DEFENDANT  
DANIEL JOSEPH SCHMIESING**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing ***Defendant Daniel Joseph Schmiesing's Motion for Independent Medical Examination*** was this 30th day of December, 2021, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

***Attorneys for Plaintiff***



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JENNIFER GIBBINS DURBIN

TAMMY BRUCH CLICK

#2174674/2331 388/TBC/du



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 60394654  
 Status as of 12/30/2021 11:34 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/30/2021 11:20:05 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/30/2021 11:20:05 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/30/2021 11:20:05 AM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/30/2021 11:20:05 AM	SENT
Debbie Uhl		duhl@asdh.com	12/30/2021 11:20:05 AM	SENT
Tonya McCall		TMcCall@asdh.com	12/30/2021 11:20:05 AM	SENT

# EXHIBIT A

FILED  
5/13/2021 4:47 PM  
Mary Angie Garcia  
Bexar County District Clerk  
Accepted By: Consuelo Gomez

**2021CI09602**

**CIT PPS W/JD**

CAUSE NO. \_\_\_\_\_

KRISTAL YBARRA,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	Bexar County - 408th District Court
v.	§	____ JUDICIAL DISTRICT
	§	
DANIEL JOSEPH SCHMIESSING,	§	
	§	
<i>Defendant.</i>	§	BEXAR COUNTY, TEXAS

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**PLAINTIFF'S ORIGINAL PETITION**

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TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Krystal Ybarra, files this Plaintiff's Original Petition complaining of Defendant, Daniel Joseph Schmiessing.

**I. DISCOVERY**

1. Plaintiff intends to conduct discovery in this suit under Level Three, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, and will seek an order, agreed or otherwise, to this effect.

**II. PARTIES**

2. **Plaintiff.** Krystal Ybarra ("Plaintiff") is a natural person and at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Bexar County, Texas.

3. **Defendant.** Daniel Joseph Schmiessing ("Defendant") is a natural person and at all times relevant to this cause has been and continues to be a resident of Knoxville, Tennessee. Defendant may be served with citation via private process at his residence, 4347 Atchley Hill Way, Knoxville, Tennessee 37920, or wherever he may be found.

### **III. VENUE**

4. Venue is proper in Bexar County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) in that all or substantially all of the events or acts or omissions giving rise to the claim occurred in Bexar County, Texas.

### **IV. FACTS**

5. On May 22, 2020, Plaintiff was traveling as a passenger in a 2008 Honda Fit in the southbound lane stopped at a red light on Bowie Street in San Antonio, Bexar County, Texas. Defendant was driving a 2019 Ford Explorer, traveling east on Houston Street in San Antonio, Bexar County, Texas. As Plaintiff proceeded through the green light, Defendant disregarded the red light and in doing so failed to yield the right-of-way, and suddenly crashed into the vehicle the Plaintiff was traveling in. As a result of the collision and Defendant's negligence, Plaintiff suffered severe and debilitating injuries.

### **V. NEGLIGENCE**

6. Plaintiff would show that, on the occasion in question, Defendant owed a duty to conduct himself in a manner consistent with the traffic laws of the State of Texas and to act as a reasonably prudent person and/or entity would act.

7. Defendant breached his duty to Plaintiff and acted in a manner that was negligent by engaging in wrongful conduct including, but not limited to:

- a. Failing to keep such a proper lookout as a person exercising ordinary prudence would have kept under the same or similar circumstances;
- b. Failing to maintain a clear and reasonable distance between Defendant's vehicle and Plaintiff's vehicle;
- c. Failing to control his speed;
- d. Failing to take timely or proper evasive action to avoid the collision in question;
- e. Failing to pay attention; and

f. Failing to control the subject vehicle so that a collision would not occur.

8. Defendant's acts and omissions constituted negligence that proximately and substantially caused the occurrence made the basis of this action, and the personal injuries and damages sustained by Plaintiff.

9. Plaintiff would show that, as a proximate result of Defendant's negligence, as described herein, Plaintiff has sustained damages far in excess of the minimum jurisdictional limits of this Court.

#### **VI. DAMAGES**

10. As a direct and proximate result of Defendant's negligence, Plaintiff suffered severe personal injuries, pain, suffering, mental anguish, disability, and impairment. Plaintiff also incurred reasonable and necessary medical expenses for the care and relief of her injuries.

11. For a long time to come, if not for the rest of her life, Plaintiff will continue to suffer physical injuries, physical impairment, disfigurement, pain and suffering, and mental anguish. Additionally, as a result of the incident, Plaintiff will incur reasonable and necessary medical expenses in the future. Plaintiff now sues for all of these damages in an amount within the jurisdictional limits of the court.

12. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff asserts that she is seeking monetary relief over \$250,000 but not more than \$1,000,000.

13. Plaintiff is entitled to recover pre-judgment and post-judgment interest as allowed by law.

**VII. CONDITIONS PRECEDENT**

14. All conditions precedent have been performed or have occurred to support Plaintiff's pleadings and causes of action.

**VIII. REQUEST FOR JURY TRIAL**

15. Plaintiff respectfully requests a trial by jury and has paid the jury fee.

**WHEREFORE**, Plaintiff requests that the Defendant be cited to appear and answer herein and that on final trial, Plaintiff has judgment against Defendant for:

- a. All medical expenses in the past and future;
- b. Mental anguish in the past and future;
- c. Physical pain in the past and future;
- d. Physical impairment in the past and future;
- e. Prejudgment and post judgment interest as allowed by law;
- f. Costs of suit; and
- g. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,  
**WYATT LAW FIRM, PLLC.**  
21 Lynn Batts Lane, Ste. 10  
San Antonio, Texas 78218  
Telephone: (210) 340-5550  
Facsimile: (210) 340-5581  
E-Service: [e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)\*

By: /s/ Paula A. Wyatt  
Paula A. Wyatt  
State Bar No. 10541400  
Gavin McInnis  
State Bar No. 13679800  
Louis Durbin  
State Bar No. 24078448  
**ATTORNEYS FOR PLAINTIFF**

\*service by email will be accepted at this address  
only

# EXHIBIT B



**AFFIDAVIT: BUSINESS RECORDS**

STATE OF TEXAS

COUNTY OF Brewer

§  
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§

Before me, the undersigned authority, personally appeared Marsha Cantu, who, being by me duly sworn, deposed as follows:

My name is Marsha Cantu. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for MD Spine Care and am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities.

Attached to this affidavit is 1 Disk pertaining to Krystal Ybarra. These are the original records or exact duplicates of the original records.

It is the regular practice of MD Spine Care to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record.

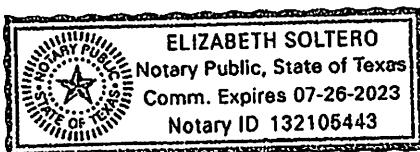
It is the regular practice of MD Spine Care for this type of record to be made by, or from information transmitted by, persons with knowledge of the matters set forth in them.

It is the regular practice of MD Spine Care to keep this type of record in the course of regularly conducted business activity.

It is the regular practice of the business activity to make the records.

[Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on the 3RD day of Feb., 2021.



[Signature]  
Notary Public, State of Texas

Notary's printed name: Elizabeth Soltero

My commission expires: 07-26-2023

YBARRAK00360

**AFFIDAVIT: BUSINESS RECORDS**

STATE OF TEXAS

COUNTY OF

Brewer

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Before me, the undersigned authority, personally appeared Marsha Cantu,  
who, being by me duly sworn, deposed as follows:

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of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for MD Spine Care and am familiar with  
the manner in which its records are created and maintained by virtue of my duties and  
responsibilities.

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Krystal Ybarra. These are the original records or exact duplicates of the original  
records.

It is the regular practice of MD Spine Care to make this type of record  
at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record.

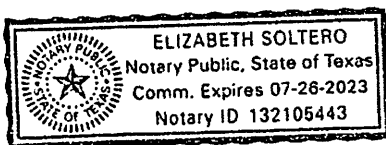
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made by, or from information transmitted by, persons with knowledge of the matters set forth in  
them.

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the course of regularly conducted business activity.

It is the regular practice of the business activity to make the records.

[Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on the 3RD day of Feb, 2021.



[Signature]  
Notary Public, State of Texas

Notary's printed name: Elizabeth Soltero

My commission expires: 07-26-2023

**AFFIDAVIT: COST AND NECESSITY OF SERVICES**

STATE OF TEXAS

COUNTY OF

Bexar

§  
§  
§

Before me, the undersigned authority, personally appeared Marsha Cantu, who, being by me duly sworn, deposed as follows:

My name is Marsha Cantu. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for MD Spine Care. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that MD Spine Care provided to Krystal Ybarra on 10/16/2020. The attached records are a part of this affidavit.

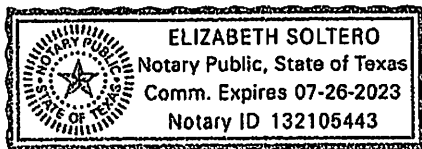
The attached records are kept by MD Spine Care in the regular course of business, and it was the regular course of business of MD Spine Care for an employee or representative of MD Spine Care, with knowledge of the service provided, to make the record or to transmit information to be included in the record. The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$ 1000.00 and the amount currently unpaid but which MD Spine Care has a right to be paid after any adjustments or credits is \$ 1677.00.

[Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on the 3RD day of Feb, 2021.



[Signature]  
Notary Public, State of Texas

Notary's printed name: Elizabeth Soltero

My commission expires: 07-26-2023

YBARRAK00362



SELF PAY

## HEALTH INSURANCE CLAIM FORM

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE (NUCC) 02/12

<input type="checkbox"/> PICA										PICA <input type="checkbox"/>																																																	
1. MEDICARE <input type="checkbox"/> (Medicare#) MEDICAID <input type="checkbox"/> (Medicaid#) TRICARE <input type="checkbox"/> (ID#/DoD#) CHAMPVA <input type="checkbox"/> (Member ID#) GROUP HEALTH PLAN <input type="checkbox"/> (ID#) FECA BLK LUNG <input type="checkbox"/> (ID#) OTHER <input checked="" type="checkbox"/> (ID#)										1a. INSURED'S I.D. NUMBER (For Program in Item 1)																																																	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) YBARRA, KRYSTAL										3. PATIENT'S BIRTH DATE MM DD YY 12 23 1987										4. INSURED'S NAME (Last Name, First Name, Middle Initial) YBARRA, KRYSTAL																																							
5. PATIENT'S ADDRESS (No., Street) 1021 SOUTH MISTY										6. PATIENT RELATIONSHIP TO INSURED Self <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input type="checkbox"/>										7. INSURED'S ADDRESS (No., Street) 1021 SOUTH MISTY																																							
CITY SAN ANTONIO										STATE TX										CITY SAN ANTONIO										STATE TX																													
ZIP CODE 78210										TELEPHONE (Include Area Code) (512) 837216										ZIP CODE 78210										TELEPHONE (Include Area Code) (512) 837216																													
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)										10. IS PATIENT'S CONDITION RELATED TO:										11. INSURED'S POLICY GROUP OR FECA NUMBER																																							
a. OTHER INSURED'S POLICY OR GROUP NUMBER										a. EMPLOYMENT? (Current or Previous) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO										a. INSURED'S DATE OF BIRTH MM DD YY 12 23 1987										SEX M <input type="checkbox"/> F <input checked="" type="checkbox"/>																													
b. RESERVED FOR NUCC USE										b. AUTO ACCIDENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO										b. OTHER CLAIM ID (Designated by NUCC)										b. OTHER CLAIM ID (Designated by NUCC)																													
c. RESERVED FOR NUCC USE										c. OTHER ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO										c. INSURANCE PLAN NAME OR PROGRAM NAME										c. INSURANCE PLAN NAME OR PROGRAM NAME																													
d. INSURANCE PLAN NAME OR PROGRAM NAME										10d. CLAIM CODES (Designated by NUCC)										d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, complete items 9, 8a, and 8d.										d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, complete items 9, 8a, and 8d.																													
READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM.																				12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.																				13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.																			
SIGNED SIGNATURE ON FILE																				DATE 10212020																				SIGNED SIGNATURE ON FILE																			
14. DATE OF CURRENT ILLNESS, INJURY, or PREGNANCY (LMP) MM DD YY QUAL										15. OTHER DATE QUAL MM DD YY										16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY										17. NAME OF REFERRING PROVIDER OR OTHER SOURCE DN FRANK K KUWAMURA III MD																													
17a. NAME OF REFERRING PROVIDER OR OTHER SOURCE DN FRANK K KUWAMURA III MD										17b. NPI 1184671398										18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY										19. ADDITIONAL CLAIM INFORMATION (Designated by NUCC)																													
20. OUTSIDE LAB? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO \$ CHARGES										21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY Relate A-L to service line below (24E)										22. RESUBMISSION CODE ORIGINAL REF. NO.										23. PRIOR AUTHORIZATION NUMBER																													
A. M54.16 B. M54.5 C. M54.12 D. M54.2										E. F. G. H.										I. J.										K. L.																													
24. A. DATE(S) OF SERVICE From To B. PLACE OF SERVICE C. D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) E. DIAGNOSIS POINTER										F. G. DAYS OR UNITS H. EPSDT Family Plan I. ID QUAL J. RENDERING PROVIDER ID. #										S CHARGES										\$ CHARGES																													
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**AFFIDAVIT: BUSINESS RECORDS**

STATE OF TEXAS

COUNTY OF

Bexar

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Before me, the undersigned authority, personally appeared Marsha Cantu who, being by me duly sworn, deposed as follows:

My name is Marsha Cantu. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for MD Spine Care and am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities.

Attached to this affidavit are 12 pages of records pertaining to Krystal Ybarra on 10/16/2020. These are the original records or exact duplicates of the original records.

It is the regular practice of MD Spine Care to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record.

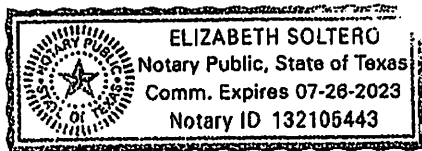
It is the regular practice of MD Spine Care for this type of record to be made by, or from information transmitted by, persons with knowledge of the matters set forth in them.

It is the regular practice of MD Spine Care to keep this type of record in the course of regularly conducted business activity.

It is the regular practice of the business activity to make the records.

[Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on the 3RD day of FEB, 2021.



[Signature]  
Notary Public, State of Texas

Notary's printed name: Elizabeth Soltero

My commission expires: 07-26-2023

YBARRAK00364

10/16/2020

<https://myradcentral.americanhealthimaging.com/Reports/printReportCustom.aspx?acc=2329778>



818 Lexington Ave.  
San Antonio, TX 78212  
Phone #: (210)572-1211  
Fax #: (210)653-9843  
[www.americanhealthimaging.com](http://www.americanhealthimaging.com)

**Name:** Krystal Ybarra  
**DOB:** 12/23/1987  
**Gender:** Female

**Exam Date:** 5/29/2020 11:59 AM  
**Patient ID:** AHI-1220278  
**Accession #:** 2329778

**Ordering Physician:** Peder Angell, DC  
**Exam Name:** MRI Cervical Spine | 72141

**CLINICAL HISTORY:** Severe neck pain.

**PROCEDURE:** A T1W sagittal sequence of the cervical spine was performed and was followed by a fast spin echo T2W sagittal sequence. A fast spin echo T2W transaxial sequence as well as a T1W oblique transaxial sequence from the C3-C4 through C7-T1 levels was then submitted.

**FINDINGS:** The alignment of the cervical spine is anatomic. No subluxation or retrolisthesis is seen. The cervical vertebrae are intact as are the posterior elements. No occult fracture is noted.

The cervical cord reveals no cord contusion or syrinx.

Transaxial images from the C2-C3 through C5-C6 levels are unremarkable.

At C6-C7 a 3.0 mm subligamentous disc herniation flattens the thecal sac.

The C7-T1 level is unremarkable.

**IMPRESSION:**

1. THE ALIGNMENT OF THE CERVICAL SPINE IS ANATOMIC.
2. AT C6-C7 A 3.0 MM FOCAL SUBLIGAMENTOUS DISC HERNIATION IS SEEN FLATTENING THE THECAL SAC WITHOUT CORD COMPRESSION OR NERVE ROOT IMPINGEMENT.

Report Electronically Signed by: James Remkus, M.D.  
Report Electronically Signed on: 6/1/2020 10:56 AM

***Radiology Report from an IAC Accredited Facility***

YBARRAK00365



10/16/2020

<https://myradcentral.americanhealthimaging.com/Reports/printReportCustom.aspx?acc=2341128>



818 Lexington Ave.  
San Antonio, TX 78212  
Phone #: (210)572-1211  
Fax #: (210)653-9843  
[www.americanhealthimaging.com](http://www.americanhealthimaging.com)

Name: Krystal Ybarra  
DOB: 12/23/1987  
Gender: Female

Exam Date: 6/11/2020 10:50 AM  
Patient ID: AHI-1220278  
Accession #: 2341128

Ordering Physician: Peder Angell, DC  
Exam Name: MRI Lumbar Spine | 72148

CLINICAL HISTORY: Severe lower back pain.

PROCEDURE: A T1W followed by a T2W sagittal sequence of the lumbar spine was performed. This was followed by a T1W and T2W transaxial sequence from the L1-L2 through L5-S1 levels.

FINDINGS: The alignment of the lumbar spine is anatomic. The lumbar vertebrae reveal no compression fracture or spondylolysis. No disc space narrowing is seen.

The conus medullaris as well as cauda equina reveal no intra or extradural mass.

The L1-L2, L2-L3, L3-L4 and L4-L5 levels are unremarkable.

At L5-S1 a 3.0 mm disc bulge is seen.

**IMPRESSION:**

1. THE ALIGNMENT OF THE LUMBAR SPINE IS ANATOMIC. NO SEGMENTAL INSTABILITY OR SPONDYLOLYSIS IS NOTED. NO COMPRESSION FRACTURE IS SEEN.
2. AT L5-S1 A 3.0 MM DISC BULGE IS NOTED WITHOUT NERVE ROOT IMPINGEMENT OR FORAMINAL NARROWING.

Report Electronically Signed by: James Remkus, M.D.  
Report Electronically Signed on: 6/12/2020 12:15 PM

***Radiology Report from an IAC Accredited Facility***

YBARRAK00366

10/16/2020

<https://myradcentral.americanhealthimaging.com/Reports/printReportCustom.aspx?acc=2341127>

818 Lexington Ave.  
San Antonio, TX 78212  
Phone #: (210)572-1211  
Fax #: (210)653-9843  
[www.americanhealthimaging.com](http://www.americanhealthimaging.com)

**Name:** Krystal Ybarra  
**DOB:** 12/23/1987  
**Gender:** Female

**Exam Date:** 6/11/2020 10:17 AM  
**Patient ID:** AHI-1220278  
**Accession #:** 2341127

**Ordering Physician:** Peder Angell, DC  
**Exam Name:** MRI Thoracic Spine | 72146

**CLINICAL HISTORY:** Severe mid thoracic spine pain.

**PROCEDURE:** A T1W sagittal followed by a fast spin echo T2W sagittal sequence of the thoracic spine has been submitted. This was followed by transaxial T1W and fast spin echo T2W images through the proximal and distal thoracic region.

**FINDINGS:** The alignment of the thoracic spine reveals no kyphoscoliosis. The thoracic vertebrae reveal no fracture or marrow replacement. The pedicles and lamina are intact. No paravertebral mass is seen.

The thoracic cord reveals no cord contusion or syrinx.

From the T1-T2 through T12-L1 levels no focal disc herniation, cord compression or foraminal narrowing is seen.

**IMPRESSION:**

1. THE ALIGNMENT OF THE THORACIC SPINE IS ANATOMIC. NO OCCULT FRACTURE IS SEEN.
2. THE THORACIC CORD IS NORMAL.
3. FROM THE T1-T2 THROUGH T12-L1 LEVELS NO FOCAL DISC HERNIATION, FORAMINAL NARROWING OR CORD COMPRESSION IS SEEN.

Report Electronically Signed by: James Remkus, M.D.  
Report Electronically Signed on: 6/12/2020 12:05 PM

***Radiology Report from an IAC Accredited Facility***

YBARRAK00367





### COVID-19 Screening Questionnaire

Today's Date: 10/16/20

Patient's/Visitor's Name: Krystal Ybarra

Are you currently experiencing, or have you experienced in the past 14 days, any of the following symptoms? (Please take your temperature before you answer these questions.)

1. Yes ☐ No ☒ Fever (100.4 F or 37.8 C or greater by an oral thermometer)
2. Yes ☐ No ☒ Cough
3. Yes ☐ No ☒ Shortness of breath or difficulty breathing
4. Yes ☐ No ☒ Sore Throat
5. Yes ☐ No ☒ New loss of taste or smell
6. Yes ☐ No ☒ Chills
7. Yes ☐ No ☒ Head or muscle aches
8. Yes ☐ No ☒ Nausea, diarrhea, vomiting
9. In the past 14 days, have you been in close proximity to anyone who was experiencing any of the above symptoms or has experienced any of the above symptoms since your contact?

Yes ☐ No ☒

10. In the past 14 days, have you been in close proximity to anyone who has tested positive for COVID-19?

Yes ☐ No ☒

### CERTIFICATION

I hereby certify that the responses provided above are true and accurate to the best of my knowledge.

Signature: Hannah Lave Date: 10/16/20

Temperature: 95.8



Phone: 210-504-3650  
Clinic Fax: 210-519-3056

**Stone Oak Office**  
Remington Oaks Medical Building  
525 Oak Centre Suite 100  
San Antonio, TX 78258

**Westover Hill Office**  
Westover Hills Towne Center:  
10010 Rogers Crossing, Suite 230  
San Antonio, TX. 78251

**PROVIDER:**

Frank K. Kuwamura III, MD

**PATIENT:**

Krystal Ybarra

**AGE:** 32 yrs.

**DOB:** 12/23/1987

**CHART#:** 951

**PAST MEDICAL &  
SURGICAL HISTORY**

**SOCIAL HISTORY**

**ALLERGIES**

No allergies on file

**MEDICATION**

No current medications on file

**INITIAL MEDICAL EVALUATION**

**DATE:** 10/16/2020

**OFFICE PATIENT WAS SEEN AT**

Stone Oak

**HISTORY OF PRESENT ILLNESS**

Mrs. Ybarra is a 32-year-old female who was involved in a MVA 5/22/2020. Since the accident she has been experiencing cervical pain. As well as lumbar pain with LE radicular symptoms. Her current pain level is 8/10 and is taking Celebrex with minimal temporary relief. She has undergone conservative care to include chiro and PM with minimal temporary relief. She would like to discuss surgery options. There is imaging and in office x-rays to be reviewed.

**PHYSICAL EXAMINATION**

**GENERAL APPEARANCE:** alert and in moderate pain.

**Gait**

- Gait, stance, and swing phase with no antalgic component.

**Cervical Exam**

**Circulation:** normal

**Right Arterial Pulses:** normal

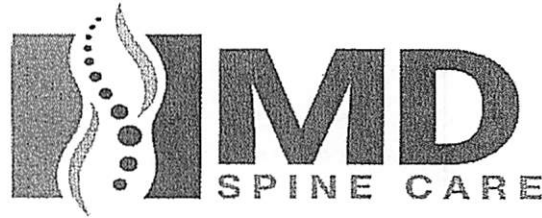
**Left Arterial pulses:** normal

**Right Shoulder:** not examined

**Left Shoulder:** not examined

YBARRAK00369





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**Inspection:** lordosis

**NECK - Inspection:** Alignment normal

**Right Soft Tissue Palpation:** tenderness of the paracervicals

**Left Soft Tissue Palpation:** tenderness of the paracervicals

**Bony Palpation:** tenderness of the C6 spinous process, Tenderness of the C7 spinous process

**ROM:**

**NECK - Extension:** painful

**NECK - Flexion:** full, painful

**Spasm:**

**NECK - Spasm:** moderate - bilaterally

**Neurological exam**

**Right:**

**Special tests:** C6 decreased sensation of the radial forearm, thumb and index finger

**Left:**

**Special tests:** Spurling's Test Negative, Hoffman's reflex absent

**Sensory Exam**

**Right upper extremity:** C6 decreased sensation of the radial forearm, thumb and index finger

**Left Upper extremity:** Normal sensation of the distal extremities

**Motor Exam**

**Right Upper Extremity:** abduction deltoid 5/5, Flexion bicep 5/5, Extension tricep 5/5, Flexion wrist 5/5, Flexion fingers 5/5, Abduction 5/5

**Left Upper extremity:** abduction deltoid 5/5, Flexion bicep 5/5, Flexion wrist 5/5, Extension tricep 5/5, Flexion fingers 5/5,

**LUMBAR EXAM**

**Lower extremity circulation:**

**Right Arterial Pulses:** normal

**Left Arterial Pulses:** normal

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Westover Hills Towne Center:  
10010 Rogers Crossing, Suite 230  
San Antonio, TX. 78251

Edema Right: none  
Edema Left: none  
Varicosities Right: none  
Varicosities Left: none  
Inspection:  
Alignment: lordosis  
Bony Palpation: tenderness of the spinous process at L5, tenderness of the sacrum

**ROM:**  
**Active ROM:** painful moderate  
Extension: painful  
Flexion: painful  
**Motor:**  
**Right:** hip flexion iliopsoas 5/5, knee extension quadricep 5/5, great toe extension extensor hallucis longus 5/5, plantar flexion gastrocnemius 5/5  
**Left:** hip flexion iliopsoas 5/5, knee extension quadricep 5/5, great toe extension extensor hallucis longus 5/5, ankle dorsiflexion tibialis anterior 5/5, plantar flexion gastrocnemius 5/5

**Neurological Exam:**  
**reflexes**  
**Right:**  
Ankle: diminished Knee: Normal  
**Sensation:** decreased sensation on the lateral leg and dorsum of the foot L5  
**Special tests:** seated straight leg raising test negative

**Left:**  
Ankle: diminished Knee: Normal  
**Sensation:** Normal distal extremities  
**Special tests:** seated straight leg raising test negative

**Psychiatric:**  
oriented to time, oriented to place, oriented to person,

YBARRAK00371





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#### ASSESSMENT

M54.16 Radiculopathy, lumbar region  
M54.5 Low back pain  
M54.12 Radiculopathy, cervical region  
M54.2 Cervicalgia cervicalgia with UE radiculopathy  
low back pain with LE radiculopathy  
lumbar disc displacement  
cervical disc displacement  
M54.16 - RADICULOPATHY, LUMBAR REGION  
M54.5 - LOW BACK PAIN  
M54.12 - RADICULOPATHY, CERVICAL REGION  
M54.2 - CERVICALGIA

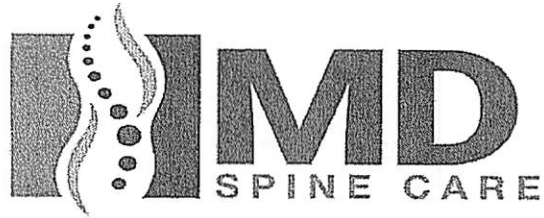
#### PLAN

The patient was involved in an MVA 5/2020, she has since been having cervical spine pain as well as axial low back pain with LE radiculopathy. She denies any history of neck or back pain prior to this injury.

After this accident she has undergone conservative care including ESI with no long-term relief.

We reviewed her MRIs. The Lumbar MRI shows disc disruption at L5/S1. The Cervical MRI shows disc herniation at C6/C7. This is well described by the interpreting radiologist.

YBARRAK00372



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For her cervical spine we discussed an Anterior cervical discectomy with artificial disc replacement at C6/C7. For her lumbar spine we discussed the possibility of a microscopic laminectomy/discectomy at L5/S1 with stem cell treatment. We have discussed risks, benefits and possible complications. All patients' questions were addressed and answered. She will think about her options. I do also recommend Pt for both her cervical and lumbar spine at this time. If patient wishes to proceed with surgery, I would ask for an in-office evaluation, testing and further discussion.

*Frank Kuwamura III*  
Frank K Kuwamura III M. D





525 Oak Centre, Suite 100  
 San Antonio, TX 78258  
 Phone: (210)504-3650  
 Fax: (210)519-3056  
[billing@mdspinecare.com](mailto:billing@mdspinecare.com)

Date: 10/16/2020

Bill To:	Patient Information
Self- Pay	Patient Name: Krystal Ybarra
	Patient DOB: 12/23/1987

Lumbar - Surgical Cost Estimate

Quantity	Description	Unit price	Amount
1	Microscopic laminectomy/discectomy at L5/S1 with stem cell treatment.	\$ 23,022.00	\$ 23,022.00
1	Facility	\$ 45,000.00	\$ 45,000.00
1	Anesthesia	\$ 8,000.00	\$ 8,000.00
1	Assistant Fee	\$ 5,208.00	\$ 5,208.00
1	DME- Brace	\$ 5,000.00	\$ 5,000.00
1	DME - DVT	\$ 2,000.00	\$ 2,000.00
1	Physical Therapy	\$ 5,000.00	\$ 5,000.00
1	Intraoperative Neuromonitoring	\$ 8,000.00	\$ 8,000.00
1	Hardware	\$ 30,000.00	\$ 30,000.00
			\$ -
<b>Subtotal</b>			<b>\$ 131,230.00</b>
<b>Balance due</b>			<b>\$ 131,230.00</b>

If you have any questions concerning this estimate, Please contact at 210-427-2310.  
**Thank you for your business!**

YBARRAK00374



525 Oak Centre, Suite 100  
 San Antonio, TX 78258  
 Phone: (210)504-3650  
 Fax: (210)519-3056  
[billing@mdspinecare.com](mailto:billing@mdspinecare.com)

Date: 10/16/2020

Bill To:	Patient Information
Self Pay	Patient Name: Krystal Ybarra Patient DOB: 12/23/1987

### Cervical - Surgical Cost Estimate

Quantity	Description	Unit price	Amount
1	Anterior cervical discectomy with artificial disc replacement at C6/C7	\$ 55,000.00	\$ 55,000.00
1	Facility	\$ 90,000.00	\$ 90,000.00
1	Anesthesia	\$ 8,000.00	\$ 8,000.00
1	Assistant Fee	\$ 18,000.00	\$ 18,000.00
1	DME- Collar	\$ 2,000.00	\$ 2,000.00
1	DME - DVT	\$ 2,000.00	\$ 2,000.00
1	Physical Therapy	\$ 5,000.00	\$ 5,000.00
1	Intraoperative Neuromonitoring	\$ 8,000.00	\$ 8,000.00
1	Hardware	\$ 40,000.00	\$ 40,000.00
			\$ -
Subtotal			\$ 228,000.00
Balance due			\$ 228,000.00

If you have any questions concerning this estimate, Please contact at 210-427-2310  
 Thank you for your business!

YBARRAK00375



FRANK K. KUWAMURA, III M.D.  
 625 OAK CENTRE DR., STE 100  
 SAN ANTONIO, TX 78258  
 210-504-8650  
 FAX: 210-519-8056

PATIENT'S NAME <b>Krystal Ybarra</b>	D.O.B. <b>12-23-87</b>	PHONE NUMBER
ADDRESS		DATE <b>10.16.20</b>

**Rx** evaluate & treat Physical therapy  
 2-3x a week for 6 weeks

M54.2  
 M54.12  
 M54.5  
 M54.10

A pharmaceutically equivalent drug product may be dispensed unless the practitioner handwritten the words, "Brand Necessary" or "Brand Medically Necessary" on the face of the prescription.

☐ Refills 1 2 3 4

Dr. *[Signature]*

DEA #:

*[Redacted]*

# EXHIBIT C

**Anton Y. Jorgensen, MD****CONTACT INFORMATION**

Orthopaedic Spine Surgeon  
 Ortho San Antonio  
 2833 Babcock Road  
 Tower II, Suite 435  
 San Antonio, TX 78229

**EDUCATION**

<u>Year</u>	<u>Degree</u>	<u>Institution</u>
1998	BS	Univ. of Maryland at College Park
2007	MD	Jefferson Medical College

**POST GRADUATE EDUCATION**

<u>Year</u>	<u>Position</u>	<u>Institution</u>
2007-2012	Orthopaedic Residency	William Beaumont Army Medical Center El Paso, Texas
2013-2014	Spine Fellowship	Rush University Medical Center Chicago, Illinois
2013-2014	Pediatric Spine Fellowship	Shriners Hospitals for Children Chicago, Illinois

**ACADEMIC APPOINTMENTS**

<u>Year</u>	<u>Position</u>	<u>Institution</u>
2019-present	Assistant Professor of Surgery	Uniformed Services University of the Health Sciences
2014-2019	Clinical Instructor	San Antonio Military Medical Center
2013-2014	Clinical Instructor	Rush University Medical Center

**MEDICAL FACULTY POSITIONS****2019-present**

Orthopaedic Spine Surgeon, Ortho San Antonio, San Antonio, TX

**2014-2019**

Chief, Orthopaedic Spine Surgery Service, San Antonio Military Medical Center, Fort Sam Houston, TX

Chief of spine service at San Antonio Military Medical Center, the level 1 trauma center and the largest tertiary care academic medical treatment facility in the DOD. On call attending spine surgeon for spine trauma. Expert consultant for complex spine deformity and complex spine fracture dislocations. Primary physician and surgeon for complex adult and pediatric spine deformity.

**2012-2013**

Interim Chief, Orthopaedic Surgery Service, Bayne Jones Army Community Hospital, Fort Polk, LA

Served as orthopaedic surgeon and interim chief of the orthopaedic surgery service at the Joint Readiness Training Center Fort Polk. Supervised and mentored a healthcare team including two physician assistants and a clinic team of cast technicians, nurses, and nurse assistants responsible for the orthopaedic care services to 35,000 soldiers and beneficiaries stationed at JRTC Fort Polk. Provided continuous on call orthopaedic care for all airborne training missions at JRTC Fort Polk.

**MILITARY SERVICE****Assignment**

JBSA-Ft. Sam Houston, TX

**Duty Title**

Chief Orthopaedic Spine Surgery Service, Department of Ortho & Rehab, San Antonio Military Medical Center (2014-2019)

Orthopaedic Surgeon, International Security Assistance Force (Afghanistan, 2014-2015)

Fort Polk, LA

Orthopaedic Surgeon (2012-2013)  
Interim Chief of Orthopaedic Surgery Service (2012-2013)

Fort Bliss, TX

Resident, Orthopaedic Surgery Service (2007-2012)

**CERTIFICATION AND LICENSURE****Certification Board(s)**

American Board of Orthopaedic Surgery  
Board Certified

**Date**

Jul 2016

**Number**

N/A

**License(s)**

Nebraska  
Washington  
Texas

April 2009-present

Jan 2017-present

April 2018-present

25091

60721609

R7033

**MEMBERSHIP SCIENTIFIC SOCIETIES/PROFESSIONAL ORGANIZATIONS.**

1. American Academy of Orthopaedic Surgeons (AAOS)
2. Society of Military Orthopaedic Surgeons (SOMOS)
3. North American Spine Society (NASS)
4. AOSpine
5. San Antonio Orthopaedic Society

**AREAS OF RESEARCH INTEREST**

1. Spine deformity surgery
2. Adult degenerative spine surgery
3. Minimally invasive spine surgery

## **TEACHING ACTIVITIES**

### **2014-2019**

San Antonio Military Medical Center, Fort Sam Houston, TX  
Lecturer for orthopaedic surgery residency core lecture series in spine for an ACGME accredited residency that graduates six residents per year. Core spine lectures, spine indications conferences, spine OITE examination questions reviews throughout the academic year.

### **23 Mar 2018**

Baylor College of Medicine, Orthopaedic Surgery Grand Rounds, Houston, TX  
"Lumbopelvic Dissociation: Spine Deformity Surgeon's Perspective"

### **8 Feb 2018**

Texas A&M College of Medicine-Scott and White Medical Center, Orthopaedic Surgery Grand Rounds, Temple, TX  
"Lumbopelvic Dissociation: Spine Deformity Surgeon's Perspective"

### **10 Jan 2018**

Central Texas Physician Assistant Association, Austin, TX  
Lecture "Sacroiliac Joint Pain: Evidence Based Diagnosis and Treatment"

### **9 Dec 2017**

Faculty, Combat Extremity Surgery Course, Phoenix, AZ  
Lecture "Spine Injuries Downrange".

### **3 Apr 2017**

San Antonio Orthopaedic Society, San Antonio, TX  
Lecture "MIS Approaches to Sagittal Balance".

### **24-25 Mar 2017**

Nuvasive XLIF and MAS TLIF Course, San Antonio, TX  
Surgeon faculty instructor.

### **3 Nov 2016**

Faculty, Combat Extremity Surgery Course, Fort Sam Houston, TX  
Lecture "Spine Injuries Downrange".

### **12 Sep 2016**

San Antonio Orthopaedic Society, San Antonio, TX  
Lecture "Spinal Osteotomies for Deformity".

## **HONORS AND AWARDS**

Jun 2018	Warren R. Kadrmas Memorial Teaching Award/SAMMC Orthopaedic Residency
Sep 2010	Frank B. Smith Resident Research Award/North Pacific Orthopaedic Society

## **PODIUM PRESENTATIONS**

Jorgensen AY, Cordill R, Tompkins B, Caskey P. Risk Factors for Infections Following Pediatric Spine Fusion Surgery: A Five-Year Review. American Academy of Orthopaedic Surgeons Annual Meeting. San Diego, CA. 17 Feb 2011.

Jorgensen AY, Cordill R, Tompkins B, Caskey P. Risk Factors for Infections Following Pediatric Spine Fusion Surgery: A Five-Year Review. Society of Military Orthopaedic Surgeons Annual Meeting. Vail, CO. 16 Dec 2010.

Jorgensen AY, Eiszner J, Persaud K, Chin K. Obesity and Smoking effects on Post-Operative Pain and Complications After Spine Surgery. American Academy of Orthopaedic Surgeons Annual Meeting. San Diego, CA. Feb 2007.

## **EDITORIAL ACTIVITIES**

Reviewer, The Spine Journal, 2019 - present

## **PUBLICATIONS**

1. Hurley R, Anderson E, Lawson B, Hobbs J, Aden J, Jorgensen A. Comparing Lumbar Disc Space Preparation with Fluoroscopy versus Cone Beam-Computed Tomography and Navigation: A Cadaveric Study. Spine. 2017;In Print Accepted 1 Nov 2017.
2. Singh K, Ahn J, Jorgensen AY, Park AJ, Rossi VJ, Aboushaala KA. Neuroforaminal Bone Growth following Minimally Invasive Transforaminal Lumbar Interbody Fusion with BMP: A Computed Tomographic Analysis. Spine J. 2015;15(10):S261.
3. Jorgensen AY, Ahn J, Aboushaala K, Singh K. Current concepts in the use of stem cells for the treatment of spinal cord injury. Semin Spine Surg. 2015 Jun 1;27(2):90–2.
4. Jorgensen AY, An HS. Severe Sagittal Imbalance and Lumbar Spinal Stenosis in a Patient with Multiple Medical Comorbidities [Internet]. SpineUniverse. 2014 [cited 2015 Jan 6]. Available from: <http://www.spineuniverse.com/professional/case-studies/jorgensen/severe-sagittal-imbalance-lumbar-spinal-stenosis-patient>
5. Marquez-Lara A, Nandyala SV, Hassanzadeh H, Sundberg E, Jorgensen A, Singh K. Sentinel Events in Lumbar Spine Surgery. Spine. 2014 Jan 29;
6. Singh K, Marquez-Lara A, Nandyala SV, Hassanzadeh H, Jorgensen AY, Sundberg E. Comparison of Perioperative Outcomes of Single-Level Lumbar Fusions: Orthopedic Surgery versus Neurosurgery. Spine J. 2014;14(11):S136.
7. Jorgensen A, Kong C, An H, Fardon D. Individualized Surgical Treatment of Degenerative Scoliosis. Rush Orthop J [Internet]. 2014; Available from: <https://www.rush.edu/sites/default/files/2014RushOrthopedicsJournal.pdf>
8. Elboghdady IM, Naqvi A, Jorgenson AY, Marquez-Lara A, Singh K. Minimally invasive transforaminal lumbar interbody fusion for lumbar spondylolisthesis. Ann Transl Med [Internet]. 2014 [cited 2015 Jan 6];2(10). Available from: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4205866/>
9. Jorgensen AY, Waterman BR, Hsiao MS, Belmont PJ. Functional outcomes of hip arthroplasty in active duty military service members. J Surg Orthop Adv. 2013;22(1):16–22.

## **BOOK CHAPTERS**

1. Wirthlin JD, Lai TT, Jorgensen AY: Spinal Stenosis. In Ramamurthy's Decision Making in Pain Management: An Algorithmic Approach. 3 edition. Edited by Nagpal A, Day M, Eckmann MS, Boies B, Driver LC. S.I.: Jaypee Brothers Medical Pub; 2017. 600 p.
2. Jorgensen AY, Lai TT, Galang E, Arora SS, Chang Chien GC: Ankylosing Spondylitis. In Ramamurthy's Decision Making in Pain Management: An Algorithmic Approach. 3 edition. Edited by Nagpal A, Day M, Eckmann MS, Boies B, Driver LC. S.I.: Jaypee Brothers Medical Pub; 2017. 600 p.

# EXHIBIT D



**ALLEN, STEIN & DURBIN, P.C.**

ATTORNEYS AT LAW

ROBERT A. ALLEN  
MARK R. STEIN  
JENNIFER G. DURBIN  
JOHN C. HOWELL  
ISIDRO O. CASTANON  
TOM L. NEWTON, JR.  
KATHERINE M. WILLIS  
ASHLEY E. GORDANO  
JOHN B. GROSSOM  
JAMES J. LEECH

SAN ANTONIO  
6243 IH-10 WEST, 7<sup>TH</sup> FLOOR  
SAN ANTONIO, TEXAS 78201  
210.734.7488  
210.738.8036 FAX

PALACIOS  
1602 MAIN STREET  
SUITE 12  
PALACIOS, TEXAS 77465  
361.972.8008  
361.972.3444 FAX

September 30, 2021

OF COUNSEL:

SHARON HOBBS  
TAMMY B. CLICK

Ms. Paula A. Wyatt  
Mr. Gavin McInnis  
Mr. Louis Durbin  
WYATT LAW FIRM, PLLC  
21 Lynn Batts Lane, Ste 100  
San Antonio, Texas 78218

**VIA E-MAIL**

**RE: Cause No. 2021CI-09602; *Krysal Ybarra v. Daniel Joseph Schmiessing*; In the 408<sup>th</sup> District Court, Bexar County, Texas**  
**Our File No.: 2331 388**

Dear Counsel:

We would like to schedule an Independent Medical Examination for Ms. Ybarra with Anton Y. Jorgensen, M.D. here in San Antonio. Dr. Jorgensen is board certified by the American Board of Orthopaedic Surgery and licensed to practice medicine in Texas.

We are willing to reach an agreement on the parameters of the examination as follows:

1. Defendant has requested Ms. Ybarra submit herself to a physical examination to be performed by Dr. Anton Y. Jorgensen pursuant to TRCP 204.

2. The selection of our retained expert is not in any way approved or agreed to by the Plaintiff; rather, Plaintiff simply acknowledges that under Rule 204, Ms. Ybarra's physical condition is in controversy and under Texas law, the Defendant has the right to require her to submit to a physical examination by a doctor of their choosing.

3. No representatives of the Defendant, including us, our staff or any insurance adjuster are allowed to be present or be consulted during the examination.

4. No diagnostic test that is painful, protracted or intrusive will be allowed. No diagnostic testing or procedures will be ordered.

Ms. Paula A. Wyatt  
Mr. Gavin McInnis  
Mr. Louis Durbin  
September 30, 2021  
Page 2

5. Plaintiff will not sign any paperwork or fill out any paperwork at the doctor's office, including "patient information forms or consent forms", since the plaintiff is not a patient of Dr. Jorgenson, and is consenting to this examination only pursuant to the requirements of Rule 204.

6. A report of Defendant's retained physician's examination which meets the requirements of Rule 204.2(a) will be furnished to plaintiff's counsel within thirty days of the examination.

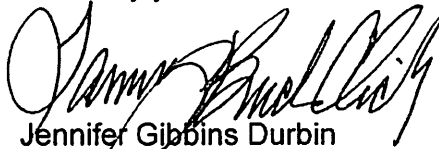
Dr. Jorgensen is available on the following dates, times and locations:

- Wednesday, November 17, 2021, 4:00 p.m., Westover Hills office location
- Tuesday, November 23, 2021, 4:30 p.m., Medical Center office location
- Wednesday, November 24, 2021, 4:00 p.m., Westover Hills office location
- Tuesday, November 30, 2021, 4:30 p.m., Medical Center office location

Please let us know which of the dates and times works best for your client and we will forward the address for the examination.

Please advise if you have any questions or need any additional information. Thanking you for your attention to the above, and awaiting your response, we remain,

Sincerely yours,



Jennifer Gibbins Durbin  
Tammy Bruch Click

TBC/du  
#2171708/2331 388/TBC/du

..

**From:** Tammy Click  
**Sent:** Thursday, September 30, 2021 11:37 AM  
**To:** Paul Myers; Deborah Uhl  
**Cc:** Gabriel Puga; Fran Viera  
**Subject:** Krystal Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388  
**Attachments:** SAN\_ANTO-#2172155-v1-2331\_388\_TBC\_Signed\_Ltr\_to\_OC\_-\_req\_IME.PDF

Paul,  
We would like to schedule an IME for Ms. Ybarra.  
Please have Ms. Wyatt or Mr. Durbin contact me regarding the attached correspondence.  
Thank you,  
Tammy Click

**From:** Paul Myers <[pmyers@wyattlawfirm.com](mailto:pmyers@wyattlawfirm.com)>  
**Sent:** Thursday, September 30, 2021 9:24 AM  
**To:** Deborah Uhl <[DUhl@ASDH.com](mailto:DUhl@ASDH.com)>  
**Cc:** Tammy Click <[TClick@ASDH.com](mailto:TClick@ASDH.com)>; Gabriel Puga <[gpuga@wyattlawfirm.com](mailto:gpuga@wyattlawfirm.com)>; Fran Viera <[fviera@asdh.com](mailto:fviera@asdh.com)>  
**Subject:** RE: Krystall Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388

Something doesn't look right in dropbox. Gabe, please take a look at this and troubleshoot.

Thank you,

Paul Myers  
Wyatt Law Firm, PLLC  
21 Lynn Batts Lane, Suite 10  
San Antonio, Texas 78218  
(210) 340-5550 Office  
(800) 580-9928 Office  
(210) 340-5581 Facsimile  
[pmyers@wyattlawfirm.com](mailto:pmyers@wyattlawfirm.com)  
<http://www.wyattlawfirm.com>

**From:** Deborah Uhl <[DUhl@ASDH.com](mailto:DUhl@ASDH.com)>  
**Sent:** Thursday, September 30, 2021 9:19 AM  
**To:** Paul Myers <[pmyers@wyattlawfirm.com](mailto:pmyers@wyattlawfirm.com)>  
**Cc:** Tammy Click <[TClick@ASDH.com](mailto:TClick@ASDH.com)>; Gabriel Puga <[gpuga@wyattlawfirm.com](mailto:gpuga@wyattlawfirm.com)>; Fran Viera <[fviera@asdh.com](mailto:fviera@asdh.com)>  
**Subject:** RE: Krystall Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388

Those 4 sets were only in the link. So I am assuming everything produced with the Initial Disclosures is produced again.

**From:** Paul Myers <[pmyers@wyattlawfirm.com](mailto:pmyers@wyattlawfirm.com)>  
**Sent:** Thursday, September 30, 2021 9:18 AM  
**To:** Deborah Uhl <[DUhl@ASDH.com](mailto:DUhl@ASDH.com)>

# EXHIBIT E

**From:** Paul Myers <pmyers@wyattlawfirm.com>  
**Sent:** Thursday, September 30, 2021 11:45 AM  
**To:** Tammy Click; Deborah Uhl  
**Cc:** Gabriel Puga; Fran Viera; Louis Durbin  
**Subject:** RE: Krystal Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388

I spoke with Louis and he won't agree to the IME at the moment.

Thank you,

Paul Myers  
Wyatt Law Firm, PLLC  
21 Lynn Batts Lane, Suite 10  
San Antonio, Texas 78218  
(210) 340-5550 Office  
(800) 580-9928 Office  
(210) 340-5581 Facsimile  
[pmyers@wyattlawfirm.com](mailto:pmyers@wyattlawfirm.com)  
<http://www.wyattlawfirm.com>

**From:** Tammy Click <TClick@ASDH.com>  
**Sent:** Thursday, September 30, 2021 11:37 AM  
**To:** Paul Myers <pmyers@wyattlawfirm.com>; Deborah Uhl <DUhl@ASDH.com>  
**Cc:** Gabriel Puga <gpuga@wyattlawfirm.com>; Fran Viera <fviera@asdh.com>  
**Subject:** Krystal Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388

Paul,  
We would like to schedule an IME for Ms. Ybarra.  
Please have Ms. Wyatt or Mr. Durbin contact me regarding the attached correspondence.  
Thank you,  
Tammy Click

**From:** Paul Myers <pmyers@wyattlawfirm.com>  
**Sent:** Thursday, September 30, 2021 9:24 AM  
**To:** Deborah Uhl <DUhl@ASDH.com>  
**Cc:** Tammy Click <TClick@ASDH.com>; Gabriel Puga <gpuga@wyattlawfirm.com>; Fran Viera <fviera@asdh.com>  
**Subject:** RE: Krystal Ybarra v. Daniel Joseph Schmiesing || Our File No. 2331 388

Something doesn't look right in dropbox. Gabe, please take a look at this and troubleshoot.

Thank you,

Paul Myers  
Wyatt Law Firm, PLLC  
21 Lynn Batts Lane, Suite 10  
San Antonio, Texas 78218  
(210) 340-5550 Office  
(800) 580-9928 Office  
(210) 340-5581 Facsimile

**ALLEN, STEIN & DURBIN, P.C.**

ATTORNEYS AT LAW

ROBERT A. ALLEN  
MARK R. STEIN  
JENNIFER G. DURBIN  
JOHN C. HOWELL  
ISIDRO O. CASTANON  
TOM L. NEWTON, JR.  
KATHERINE M. WILLIS  
ASHLEY E. GIORDANO  
JOHN B. GRISSOM  
JAMES J. LEECH, JR.  
ARIEL R. ERWIN

**SAN ANTONIO**  
6243 IH-10 WEST, 7TH FLOOR  
SAN ANTONIO, TEXAS 78201  
210.734.7488  
210.738.8036 FAX

PALACIOS  
1602 MAIN STREET  
SUITE 129  
PALACIOS, TEXAS 77465  
361.972.6006  
361.972.3444 FAX

OF COUNSEL:

SHARON D. HOBBS  
TAMMY BRUCH CLICK

December 1, 2021

Bexar County District Clerk  
100 Dolorosa  
San Antonio, Texas 78205

**VIA E-FILE**

**RE: Cause No. 2021CI-09602; *Krysal Ybarra v. Daniel Joseph Schmiessing*  
In the 408<sup>th</sup> District Court, Bexar County, Texas  
Our File No. 2331 388**

Dear Clerk of the Court:

With regard to the above referenced matter, we are requesting an executed copy of the Agreed Docket Control Order entered with the Court on or about December 1, 2021.

Copies have been paid for and please email the executed Agreed Docket Control Order to [tclick@asdh.com](mailto:tclick@asdh.com) and [duhl@asdh.com](mailto:duhl@asdh.com).

Thanking you for your courtesy and attention to the above, and awaiting your reply, we remain,

Sincerely,



Jennifer Gibbins Durbin  
Tammy Bruch Click

TBC/du  
#2197324

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 59599288  
 Status as of 12/3/2021 2:32 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/1/2021 1:27:49 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/1/2021 1:27:49 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/1/2021 1:27:49 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/1/2021 1:27:49 PM	SENT
Debbie Uhl		duhl@asdh.com	12/1/2021 1:27:49 PM	SENT
Tonya McCall		TMcCall@asdh.com	12/1/2021 1:27:49 PM	SENT

**CAUSE NO. 2021CI09602**

KRYSTAL YBARRA  
*Plaintiff*

VS.

DANIEL JOSEPH SCHMIESSING  
*Defendant*

IN THE DISTRICT COURT

408TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

## NOTICE OF HEARING

Defendant's Motion for Independent Medical Examination entered with the Court on December 30, 2021 having been presented to me, the undersigned Presiding Judge, and it appearing to the Court that a hearing is necessary, same is hereby set for hearing on <sup>2022</sup> **Friday, January 7, ~~2021~~, at 8:30 a.m. in Presiding Court, Bexar County Courthouse, San Antonio, Texas by ZOOM.**

The link to the Presiding District Court ZOOM is <https://zoom.us/my/bexarpresidingcourtzoom>.

The link to the Bexar County Civil District Presiding Court YouTube is <https://youtube.com/channel/watch?v=ljERoVIGR2Q>.

The ZOOM telephone access number for Presiding District Court is 1 (346) 248-7799. The Presiding District Court ZOOM access code is 917-895-6796.

1. The time announcement: **20 minutes**.
2. Telephone number for all attorneys or self-represented litigants:

Defendant's Counsel: Tammy Bruch Click – (210) 734-7488  
Plaintiff's Counsel: Paula Wyatt – (210) 340-5550  
Plaintiff's Counsel: Louis Durbin – (210) 340-5550

3. Email addresses for all attorneys and self-represented litigants:

[tclick@asdh.com](mailto:tclick@asdh.com)  
[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

4. Whether the party is ready or not: **Defendant is ready.**
5. Whether an interpreter is needed: **No.**



6. The number of witnesses: **none**.
7. The total number of participants in the call: **Two (2) people will participate in the hearing.**
8. Whether a record is required: **no**.

12/30/2021

**SIGNED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**JUDGE MONIQUE DIAZ  
PRESIDING JUDGE  
150<sup>TH</sup> DISTRICT COURT**

---

**JUDGE PRESIDING**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing **Notice of Hearing** was this 30th day of December, 2021, forwarded via e-service to:

e-serve@wyattlawfirm.com  
Paula A. Wyatt  
Gavin McInnis  
Louis Durbin  
WYATT LAW FIRM, PLLC  
21 Lynn Batts Lane, Ste 10  
San Antonio, Texas 78218  
**Attorneys for Plaintiff**



---

JENNIFER GIBBINS DURBIN  
TAMMY BRUCH CLICK

#2172442/2256 137/TBC/du

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 60395619  
 Status as of 12/30/2021 2:19 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/30/2021 11:25:34 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/30/2021 11:25:34 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/30/2021 11:25:34 AM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/30/2021 11:25:34 AM	SENT
Debbie Uhl		duhl@asdh.com	12/30/2021 11:25:34 AM	SENT
Tonya McCall		TMcCall@asdh.com	12/30/2021 11:25:34 AM	SENT

**CAUSE NO. 2021CI09602**

**KRYSTAL YBARRA**  
*Plaintiff*

**VS.**

**DANIEL JOSEPH SCHMIESSING**  
*Defendant*

ဘာသာစကား

IN THE DISTRICT COURT

408TH JUDICIAL DISTRICT

**BEXAR COUNTY, TEXAS**

**DEFENDANT DANIEL JOSEPH SCHMIESING, INCORRECTLY NAMED DANIEL JOSEPH SCHMIESSING'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES DANIEL JOSEPH SCHMIESING, INCORRECTLY NAMED DANIEL JOSEPH SCHMIESSING, Defendant in the above styled and numbered cause, and files this his Original Answer. Defendant would respectfully show the Court as follows:

**l.**

Defendant, DANIEL JOSEPH SCHMIESING, INCORRECTLY NAMED DANIEL JOSEPH SCHMIESSING, generally denies the allegations contained in Plaintiff's Original Petition and any amendments thereto, and demands strict proof thereof by a preponderance of the credible and believable testimony and evidence.

## 11.

Defendant affirmatively pleads and specially alleges that Plaintiff's recovery for medical expenses, if any, is limited and/or reduced pursuant to §41.0105 of the Texas Civil Practice & Remedies Code.

### III.

Defendant affirmatively pleads and alleges that Plaintiff's claimed injuries are the result, either in whole or in part, of a pre-existing condition or injury which is the cause, either in whole or in part, of Plaintiff's claimed damages.

WHEREFORE, PREMISES CONSIDERED, Defendant DANIEL JOSEPH SCHMIESING, INCORRECTLY NAMED DANIEL JOSEPH SCHMIESSING prays that Plaintiff takes nothing by way of her pleading and go hence without day. Defendant DANIEL JOSEPH SCHMIESING, INCORRECTLY NAMED DANIEL JOSEPH SCHMIESSING further prays that judgment be entered in favor of Defendant and against Plaintiff for damages, if any, sustained by Plaintiff, for costs of court and for such other and further relief to which he may show himself justly entitled, whether at law or in equity.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C  
6243 IH 10 West, 7th Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
Telephone No. (210) 734-7488  
Telecopier No. (210) 738-8036



---

JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

***\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)***

**ATTORNEYS FOR DEFENDANT  
DANIEL JOSEPH SCHMIESING,  
INCORRECTLY NAMED DANIEL JOSEPH  
SCHMIESSING**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing ***Defendant's Original Answer***, was this the 16<sup>th</sup> day of July, 2021, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218



JENNIFER GIBBINS DURBIN

TAMMY BRUCH CLICK

#2129847/2331 388/TBC/du

**CAUSE NO. 2021CI09602**

KRYSTAL YBARRA  
*Plaintiff*

**VS.**

**DANIEL JOSEPH SCHMIESSING**  
*Defendant*

IN THE DISTRICT COURT

## 408TH JUDICIAL DISTRICT

**BEXAR COUNTY, TEXAS**

**DEFENDANT STANDARDAERO AVIATION HOLDINGS, INC.'S ORIGINAL ANSWER**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES STANDARD AERO AVIATION HOLDINGS, INC., Defendant in the above styled and numbered cause, and files this its Original Answer. Defendant would respectfully show the Court as follows:

1.

Defendant, STANDARD AERO AVIATION HOLDINGS, INC., generally denies the allegations contained in Plaintiff's Amended Original Petition and any amendments thereto, and demands strict proof thereof by a preponderance of the credible and believable testimony and evidence.

## II.

Defendant, STANDARD AERO AVIATION HOLDINGS, INC., specifically states that it is not a proper party as it is not the employer of Daniel Schmiesing.

### III.

Defendant affirmatively pleads and specially alleges that Plaintiff's recovery for medical expenses, if any, is limited and/or reduced pursuant to §41.0105 of the Texas Civil Practice & Remedies Code.

IV.

Defendant affirmatively pleads and alleges that Plaintiff's claimed injuries are the result, either in whole or in part, of a pre-existing condition or injury which is the cause, either in whole or in part, of Plaintiff's claimed damages.

WHEREFORE, PREMISES CONSIDERED, Defendant STANDARDAERO AVIATION HOLDINGS, INC. prays that Plaintiff takes nothing by way of her pleading and go hence without day. Defendant STANDARDAERO AVIATION HOLDINGS, INC. further prays that judgment be entered in favor of Defendant and against Plaintiff for damages, if any, sustained by Plaintiff, for costs of court and for such other and further relief to which he may show himself justly entitled, whether at law or in equity.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C  
6243 IH 10 West, 7th Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
Telephone No. (210) 734-7488  
Telecopier No. (210) 738-8036



---

JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

**\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)**

**ATTORNEYS FOR DEFENDANT  
STANDARDAERO AVIATION HOLDINGS,  
INC.**



**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing ***Defendant's Original Answer***, was this the 4th day of March, 202, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218



---

JENNIFER GIBBINS DURBIN

TAMMY BRUCH CLICK

#2236258/2331 388/TBC/du



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 62318181  
 Status as of 3/4/2022 4:45 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	3/4/2022 2:50:09 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	3/4/2022 2:50:09 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	3/4/2022 2:50:09 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	3/4/2022 2:50:09 PM	SENT
Debbie Uhl		duhl@asdh.com	3/4/2022 2:50:09 PM	SENT
Tonya McCall		TMcCall@asdh.com	3/4/2022 2:50:09 PM	SENT

**CAUSE NO. 2021CI09602**

KRYSTAL YBARRA  
*Plaintiff*

VS.

DANIEL JOSEPH SCHMIESSING  
*Defendant*

IN THE DISTRICT COURT

408TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

## DEFENDANT'S NOTICE OF FILING RULE 11 AGREEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Rule 11, Texas Rules of Civil Procedure, Defendant, DANIEL JOSEPH SCHMIESING, notifies the Court of their agreement with Counsel for Plaintiff as evidenced by the Rule 11 Agreement attached hereto as “Exhibit A”.

Respectfully submitted,

**ALLEN, STEIN & DURBIN, P.C.**  
6243 IH-West, Suite 700  
San Antonio, TX, 78201  
Phone: (210) 734-7488  
Fax: (210) 738-8036

By:

JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
jdurbin@asdh.com  
TAMMY BRUCH CLICK  
State Bar No. 03239300  
tclick@asdh.com

**\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)**

**ATTORNEYS FOR DEFENDANT  
DANIEL JOSEPH SCHMIESING**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all counsel of record on this the 6<sup>TH</sup> day of January 2022 in accordance with the Texas Rules of Civil Procedure.

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

***Attorneys for Plaintiff***



TAMMY BRUCH CLICK

#2211220/2331 388/TBC/du

# EXHIBIT “A”

**ALLEN, STEIN & DURBIN, P.C.**

ATTORNEYS AT LAW

ROBERT A. ALLEN  
MARK R. STEIN  
JENNIFER G. DURBIN  
JOHN C. HOWELL  
ISIDRO O. CASTANON  
TOM L. NEWTON, JR.  
KATHERINE M. WILLIS  
ASHLEY E. GIORDANO  
JOHN B. GRISSOM  
JAMES J. LEECH, JR.  
ARIEL R. ERWIN

**SAN ANTONIO**  
6243 IH-10 WEST, 7<sup>TH</sup> FLOOR  
SAN ANTONIO, TEXAS 78201  
210.734.7488  
210.738.8036 FAX

PALACIOS  
1602 MAIN STREET  
SUITE 129  
PALACIOS, TEXAS 77465  
361.972.6006  
361.972.3444 FAX

OF COUNSEL:

SHARON D. HOBBS  
TAMMY BRUCH CLUCK

January 6, 2022

Paula A. Wyatt  
Gavin McInnis  
Louis Durbin  
WYATT LAW FIRM, PLLC  
21 Lynn Batts Lane, Ste 100  
San Antonio, Texas 78218  
VIA EMAIL

**RE: Cause No. 2021CI-09602; *Krysal Ybarra v. Daniel Joseph Schmiessing*  
In the 408<sup>th</sup> District Court, Bexar County, Texas  
Our File No. 2331 388**

**TRCP RULE 11 AGREEMENT**

Dear Counsel:

With regard to the above referenced matter, this correspondence shall serve to confirm our agreements regarding Defendant's request for a TRCP Rule 204 examination of Ms. Ybarra.

1. Ms. Ybarra will appear on January 26, 2022 at 4:00 p.m. for her examination by Dr. Anton Jorgensen at the Westover Hills office, located at 11212 State Highway 151, Medical Plaza 1, Suite 310, San Antonio, TX 78251.
2. Dr. Jorgensen will conduct a diagnostic interview, including questions concerning Ms. Ybarra's present medical conditions, and health history, medical, surgical, and social, and will include questions concerning her pain and the timeline, current and past medications, therapy, and other medical treatment.
3. Dr. Jorgensen will not discuss issues involving liability with Ms. Ybarra.

4. Dr. Jorgensen will conduct an orthopedic examination addressing Ms. Ybarra's physical conditions that are at issue in the lawsuit including range of motion, neurological function, strength, sensation, reflexes, and balance.

5. Dr. Jorgensen will not order or conduct any imaging or other procedures.

6. No videotape of the TRCP, Rule 204 examination will be conducted.

7. No law firm representatives will be present for the examination.

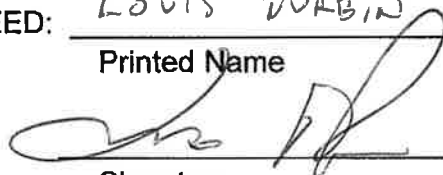
8. Dr. Jorgensen will provide a written report setting out his findings, including results of all orthopedic examinations, his diagnoses, and conclusions, by Defendant's expert disclosure deadline.

We ask that you acknowledge these agreements by signing below. Thanking you for your courtesy and attention to the above, and awaiting your reply, we remain,

Sincerely yours,

  
Jennifer Gibbins Durbin  
Tammy Bruch Click

AGREED: LOUIS DURBIN  
Printed Name

  
Signature

**Attorneys for Plaintiff, Krystal Ybarra**

1/6/22  
Date

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Deborah Uhl on behalf of Tammy Click  
 Bar No. 3239300  
 DUhl@asdh.com  
 Envelope ID: 60571557  
 Status as of 1/7/2022 4:11 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	1/6/2022 3:18:34 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	1/6/2022 3:18:34 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	1/6/2022 3:18:34 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	1/6/2022 3:18:34 PM	SENT
Debbie Uhl		duhl@asdh.com	1/6/2022 3:18:34 PM	SENT
Tonya McCall		TMcCall@asdh.com	1/6/2022 3:18:34 PM	SENT



No. 2021CI09602

**Krystal Ybarra**

**vs.**

**Daniel Joseph Schmiessing**

:  
:  
:  
:  
:

**IN THE DISTRICT COURT OF**

**BEXAR COUNTY, TEXAS**

**408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

RE: **Frank K. Kuwamura, III, M.D. - Medical Records and Diagnostic Imaging**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

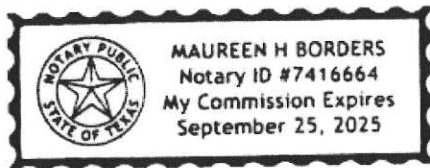
1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 246.90 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 10/08/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:

Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218

9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 10/22/2021



*Maureen H Borders*



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60122123

Status as of 12/17/2021 10:01 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/17/2021 9:37:03 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/17/2021 9:37:03 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/17/2021 9:37:03 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/17/2021 9:37:03 AM	SENT
Debbie Uhl		duhl@asdh.com	12/17/2021 9:37:03 AM	SENT
Tonya McCall		TMcCall@asdh.com	12/17/2021 9:37:03 AM	SENT

No. 2021CI09602

**Krystal Ybarra**

vs.

**Daniel Joseph Schmiessing**

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**IN THE DISTRICT COURT OF  
 BEXAR COUNTY, TEXAS  
 408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

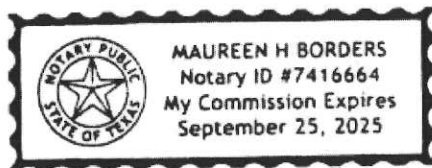
RE: **Consultants in Pain Medicine - Medical Records and Diagnostic Imaging**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 71.50 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 10/05/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
 Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 10/19/2021



*Maureen H. Borders*



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59282452

Status as of 11/19/2021 11:13 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	11/18/2021 10:09:22 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	11/18/2021 10:09:22 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	11/18/2021 10:09:22 AM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	11/18/2021 10:09:22 AM	SENT
Debbie Uhl		duhl@asdh.com	11/18/2021 10:09:22 AM	SENT
Tonya McCall		TMcCall@asdh.com	11/18/2021 10:09:22 AM	SENT

No. 2021CI09602

**Krystal Ybarra**

**vs.**

**Daniel Joseph Schmiessing**

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**IN THE DISTRICT COURT OF**

**BEXAR COUNTY, TEXAS**

**408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

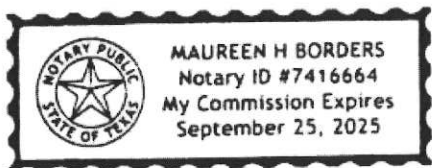
RE: **ChiroCare Injury Rehab - Medical Records and Diagnostic Imaging**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 233.10 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 11/04/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 11/13/2021.



*Maureen H Borders*





**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60346153

Status as of 12/28/2021 4:09 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/28/2021 3:45:45 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/28/2021 3:45:45 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/28/2021 3:45:45 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/28/2021 3:45:45 PM	SENT
Debbie Uhl		duhl@asdh.com	12/28/2021 3:45:45 PM	SENT
Tonya McCall		TMcCall@asdh.com	12/28/2021 3:45:45 PM	SENT

No. 2021CI09602

<b>Krystal Ybarra</b>	:	<b>IN THE DISTRICT COURT OF</b>
	:	
<b>vs.</b>	:	<b>BEXAR COUNTY, TEXAS</b>
	:	
<b>Daniel Joseph Schmiessing</b>	:	<b>408TH JUDICIAL DISTRICT</b>

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

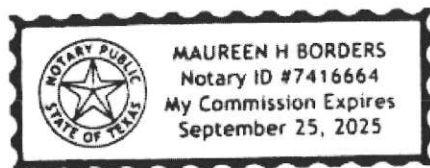
RE: **American Health Imaging - Medical Records and Diagnostic Imaging**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 147.55 charged to Attorney for Defendant, **Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 11/22/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Otellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 11/30/2021.



*Maureen H Borders*





**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60497429

Status as of 1/6/2022 10:05 AM CST

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	1/5/2022 1:20:40 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	1/5/2022 1:20:40 AM	SENT

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	1/5/2022 1:20:40 AM	SENT
Debbie Uhl		duhl@asdh.com	1/5/2022 1:20:40 AM	SENT
Tonya McCall		TMcCall@asdh.com	1/5/2022 1:20:40 AM	SENT

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	1/5/2022 1:20:40 AM	SENT

No. 2021CI09602

**Krystal Ybarra**

**vs.**

**Daniel Joseph Schmiessing**

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**IN THE DISTRICT COURT OF**

**BEXAR COUNTY, TEXAS**

**408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

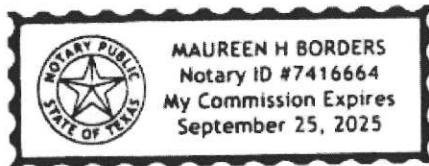
RE: **Frank K. Kuwamura, III, M.D. - Billing Records**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 51.50 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 10/08/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 10/22/2021.



*Maureen H Borders*



**Automated Certificate of eService**

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Envelope ID: 60133719

Status as of 12/17/2021 2:11 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/17/2021 12:33:36 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/17/2021 12:33:36 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/17/2021 12:33:36 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/17/2021 12:33:36 PM	SENT
Debbie Uhl		duhl@asdh.com	12/17/2021 12:33:36 PM	SENT
Tonya McCall		TMcCall@asdh.com	12/17/2021 12:33:36 PM	SENT

No. 2021CI09602

**Krystal Ybarra**  
vs.  
**Daniel Joseph Schmiessing**

**IN THE DISTRICT COURT OF  
BEXAR COUNTY, TEXAS  
408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

RE: **Consultants in Pain Medicine - Billing Records**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 51.80 charged to Attorney for Defendant, **Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 10/05/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 10/18/2021



*Maureen H Borders*



**Automated Certificate of eService**

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Envelope ID: 59282731

Status as of 11/19/2021 11:12 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	11/18/2021 10:12:44 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	11/18/2021 10:12:44 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	11/18/2021 10:12:44 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	11/18/2021 10:12:44 AM	SENT
Debbie Uhl		duhl@asdh.com	11/18/2021 10:12:44 AM	SENT
Tonya McCall		TMcCall@asdh.com	11/18/2021 10:12:44 AM	SENT



No. 2021CI09602

**Krystal Ybarra**

**vs.**

**Daniel Joseph Schmiessing**

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**IN THE DISTRICT COURT OF  
BEXAR COUNTY, TEXAS  
408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

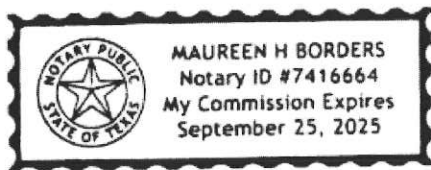
RE: **ChiroCare Injury Rehab - Billing Records**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 165.8 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 11/04/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 11/12/2021



*Maureen H Borders*



**Automated Certificate of eService**

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Envelope ID: 60497429

Status as of 1/6/2022 10:05 AM CST

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer GibbinsDurbin		jgd-service@asdh.com	1/5/2022 1:20:40 AM	SENT
Tammy Click		tclick@asdh.com	1/5/2022 1:20:40 AM	SENT

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Debbie Uhl		duhl@asdh.com	1/5/2022 1:20:40 AM	SENT
Tonya McCall		TMcCall@asdh.com	1/5/2022 1:20:40 AM	SENT
Jennifer G.Durbin		jdurbin@asdh.com	1/5/2022 1:20:40 AM	SENT

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	1/5/2022 1:20:40 AM	SENT



No. 2021CI09602

Krystal Ybarra

vs.

Daniel Joseph Schmiessing

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IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

408TH JUDICIAL DISTRICT

CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY

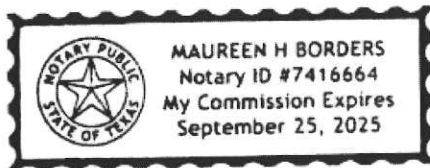
RE: Medport Billing - Billing Records

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 56.10 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 10/22/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 11/03/2021.



*Maureen H Borders*



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60121797

Status as of 12/17/2021 9:57 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/17/2021 9:33:34 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/17/2021 9:33:34 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/17/2021 9:33:34 AM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G. Durbin		jdurbin@asdh.com	12/17/2021 9:33:34 AM	SENT
Debbie Uhl		duhl@asdh.com	12/17/2021 9:33:34 AM	SENT
Tonya McCall		TMcCall@asdh.com	12/17/2021 9:33:34 AM	SENT

No. 2021CI09602

**Krystal Ybarra**

**vs.**

**Daniel Joseph Schmiessing**

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**IN THE DISTRICT COURT OF**

**BEXAR COUNTY, TEXAS**

**408TH JUDICIAL DISTRICT**

**CERTIFICATION BY OFFICER AND NOTICE OF DELIVERY**

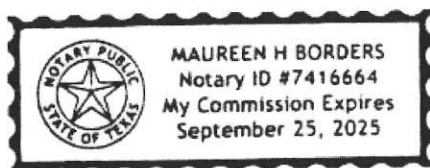
**RE: Phase 4 Physiotherapy - Billing Records**

I, Maureen H. Borders, Notary Public in and for the State of Texas hereby certify pursuant to Rule 203, Texas Rules of Civil Procedure, that

1. This Deposition upon Written Questions of the witness, the Custodian of Records for the above named, is a true and exact duplicate of the transcript and records pertaining to **Krystal Michelle Ybarra**, given by the witness named herein, after said witness was duly sworn by a duly authorized officer;
2. The transcript is a true record of the testimony given by the witness;
3. The amount of the charges for the preparation of the completed Deposition upon Written Questions and any copies of exhibits is \$ 51.10 charged to Attorney for **Defendant, Jennifer G. Durbin; Allen, Stein & Durbin, P.C. - 130209, 7840500**
4. The deposition transcript was submitted on 11/03/2021 to the witness for examination, signature and return to the officer by a specified date;
5. Changes, if any, made by the witness in the transcript and otherwise are attached thereto or incorporated therein;
6. The witness returned the transcript;
7. The original transcript of the Deposition upon Written Questions and a copy thereof, together with copies of all exhibits were endorsed and delivered in accordance with Rule 203.3, TRCP, to the attorney or party who Noticed the first written question for safekeeping and use at trial;
8. Pursuant to information made a part of the records when the testimony was taken, the attorneys/ parties of record are:  
  
Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218
9. A copy of this Certification and Notice of Delivery was served on all parties shown herein.

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON 12/03/2021.



*Maureen H Borders*



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60497429

Status as of 1/6/2022 10:05 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	1/5/2022 1:20:40 AM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	1/5/2022 1:20:40 AM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	1/5/2022 1:20:40 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	1/5/2022 1:20:40 AM	SENT
Debbie Uhl		duhl@asdh.com	1/5/2022 1:20:40 AM	SENT
Tonya McCall		TMcCall@asdh.com	1/5/2022 1:20:40 AM	SENT

No.: 2021CI09602

Krystal Ybarra

VS.

Daniel Joseph Schmiessing

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

408TH JUDICIAL DISTRICT

**NOTICE OF INTENTION  
TO TAKE DEPOSITION BY WRITTEN QUESTIONS**

To parties by and through their attorneys of record:

Paula Wyatt, Wyatt Law Firm, Ltd., 21 Lynn Batts Ln., Suite 10, San Antonio, Texas 78218

Please take notice that after twenty (20) days from the service of a copy hereof, including the attached questions, a deposition by written questions will be taken of the custodian of records for:

See attached Exhibit "A"

before a Notary Public for Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002 or its designated agent at the address and office of the witness.

The deposition, including attached questions, answers and documents or things produced by the witness, may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is hereby made as authorized by the Texas Rules of Civil Procedure to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce and to permit the inspection and copying of any and all documents and things as designated in the attached questions [and/or Exhibit(s)] pertaining to **Krystal Michelle Ybarra**.

Respectfully submitted,

/s/ Jennifer G. Durbin

\_\_\_\_\_  
Jennifer G. Durbin  
State Bar No.: 7840500  
Tammy B. Click  
State Bar No.:  
Allen, Stein & Durbin, P.C. - 130209  
6243 West Interstate 10, 7th Floor  
San Antonio, TX 78201  
Phone: 210-734-7488; Fax: 210-738-8036  
Attorney for: Defendant  
Email: jdurbin@asdh.com

I hereby certify that a true and correct copy of the foregoing instrument has been served on all parties or their attorneys of record in compliance with Rule 21(a), TRCP, by hand delivery, telephonic document transfer, and/or certified mail, return receipt requested, on this day.

Date: 12/29/2021


  
\_\_\_\_\_  
Ontellus

EXHIBIT "A"

**American Health Imaging (Corporate) (Billing Records)**  
2200 Century Pkwy NE, Suite 600, Atlanta, GA 30345

**SUBPOENA DUCES TECUM - THE STATE OF TEXAS**

To any Sheriff or Constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Rule 176, Texas Rules of Civil Procedure.

GREETINGS: You are hereby commanded to subpoena and summon the following witness(es): Custodian of Records for: American Health Imaging (Corporate), 2200 Century Pkwy NE, Suite 600, Atlanta, GA 30345 to be and appear before a Notary Public of my designation for **Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002** or its designated agent, at the office of said custodian after twenty (20) days from the date of service hereof and to bring, produce and make available for inspection and copying the specified records including those existing in electronic or magnetic form in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to: Krystal Michelle Ybarra, Date of Birth [REDACTED], SSN: xxx-xx-xxxx.

Complete billing records from 05/22/2010 to the present, including but not limited to any records/documents that may be stored digitally and/or electronically: charges, statements, explanation of benefits, payments, adjustments, write-offs, lien agreements, Letters of Protection between the facility and patient's attorney, balances paid, balances due, CPT/diagnostic codes, and itemized billing charges pertaining to any and all care, treatment, and/or examinations. All billing emails between physicians and the patient, including secure messages.

**The date range of records needed is 05/22/2010 to Present.**

The said custodian will give evidence and remain from day to day and time to time until discharged according to law at the instance of the Defendant, Daniel Joseph Schmiessing, represented by Jennifer G. Durbin, Attorney of Record, in that certain Cause No. 2021CI09602, styled

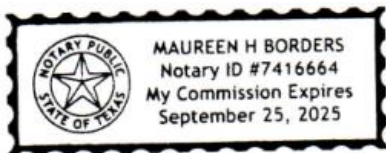
Krystal Ybarra

vs.

Daniel Joseph Schmiessing

pending on the docket of the 408TH Judicial District of BEXAR County, Texas. This subpoena is issued under and by virtue of authority of a notice duly served and filed with the above named court and is returnable forthwith in accordance with the Officer's Return set forth below. Rule 176.8(a), Texas Rules of Civil Procedure, provides failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

**WITNESS MY HAND**, and the issuance hereof on 12/29/2021.



*Maureen H. Borders*

**NOTARY PUBLIC**

**OFFICER'S RETURN**

Came to hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and executed this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m./p.m., in the following manner: By delivering to the witness \_\_\_\_\_, a true copy hereof and tendered to the witness a fee of \$\_\_\_\_\_.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PROCESS SERVER



No.: 2021CI09602

Krystal Ybarra

VS.

Daniel Joseph Schmiessing

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

408TH JUDICIAL DISTRICT

**DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS**

Custodian of Records for: American Health Imaging (Corporate)

Records Pertaining to: Krystal Michelle Ybarra

Complete billing records from 05/22/2010 to the present, including but not limited to any records/documents that may be stored digitally and/or electronically: charges, statements, explanation of benefits, payments, adjustments, write-offs, lien agreements, Letters of Protection between the facility and patient's attorney, balances paid, balances due, CPT/diagnostic codes, and itemized billing charges pertaining to any and all care, treatment, and/or examinations. All billing emails between physicians and the patient, including secure messages.

-----  
1. Please state your full name.

Answer: \_\_\_\_\_

2. Please state your position and/or job title.

Answer: \_\_\_\_\_

3. Please state your employer's name, business address and telephone number.

Answer: \_\_\_\_\_  
\_\_\_\_\_

4. Did you receive a Subpoena Duces Tecum to release billing records regarding Krystal Michelle Ybarra?

Answer: \_\_\_\_\_

5. Are you authorized by American Health Imaging (Corporate) to testify as to the patient billing and accounting records of Krystal Michelle Ybarra?

Answer: \_\_\_\_\_

6. Were the entries in these notes, records and/or reports, made at the time or shortly after the time of the transaction recorded by those entries?

Answer: \_\_\_\_\_

7. Were these notes, records and/or reports, made or caused to be made by American Health Imaging (Corporate) in the regular course of business?

Answer: \_\_\_\_\_

8. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information to make such records from sources who have such personal knowledge?

Answer: \_\_\_\_\_

9. Are these notes, records and/or reports, under your care, supervision, direction, custody and control?

Answer: \_\_\_\_\_

10. Were these records, kept as described above?

Answer: \_\_\_\_\_

11. Does the source of the information or the method of preparing these records, indicate the records are of a trustworthy nature?

Answer: \_\_\_\_\_

12. Please hand all of the notes, records and/or reports, as outlined in the Subpoena Duces Tecum which were made at American Health Imaging (Corporate) to the Notary Public for photocopying and marking as Exhibits to be attached to this deposition. Having you done so?

Answer: \_\_\_\_\_

13. Has American Health Imaging (Corporate) made or caused any billing and accounting for services rendered to Krystal Michelle Ybarra, including, but not limited to, the amount that American Health Imaging (Corporate) has adjusted, discounted, and/or written off, any third-party adjustments, and any payments made by Krystal Michelle Ybarra?

Answer: \_\_\_\_\_

14. What is the total dollar amount of the charges for the services rendered to Krystal Michelle Ybarra as reflected in the billing and accounting records?

Answer: \_\_\_\_\_

15. What is the total dollar amount of the charges for the services rendered as reflected in the billing records that have been paid by Krystal Michelle Ybarra himself/herself (and not by private insurance or some other person or entity)?

Answer: \_\_\_\_\_

16. Has any amount of the charges for services rendered to Krystal Michelle Ybarra been paid by private insurance, or by any person or entity other than Krystal Michelle Ybarra?

Answer: \_\_\_\_\_

17. If your answer to the preceding question was "yes," please write the name of the private insurer, person, or entity, and the total amount paid by each for services rendered to Krystal Michelle Ybarra.

	Private Insurer, Person or Entity	Total Amount Paid
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____
e.	_____	_____

18. If you provided a name or names and amount(s) in response to the preceding questions, please state whether or not American Health Imaging (Corporate) has a managed care or contractual arrangement as to each private insurer, person or entity listed which requires an adjustment, discount, or write-off of any portion or amount of the billed charges.

Answer: \_\_\_\_\_

19. If your answer to the preceding question was "yes" as to any private insurer, person or entity listed, please state the total amount of the charges for services rendered to Krystal Michelle Ybarra as reflected in the billing and accounting records which has been adjusted, discounted, written off by American Health Imaging (Corporate) as a result of the managed care or contractual arrangement with each private insurer, person or entity listed.

	Private Insurer, Person or Entity	Total Amount Paid
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____
e.	_____	_____

20. For each entity listed in the preceding three questions, please state whether or not American Health Imaging (Corporate) has a managed care or contractual arrangement with the listed private insurer, person or entity which prohibits this facility from seeking reimbursement from Krystal Michelle Ybarra for any of the amounts which have been adjusted, discounted, or written off as a result of that managed care or contractual arrangement.

Answer: \_\_\_\_\_

\_\_\_\_\_

21. Is American Health Imaging (Corporate) a provider under Medicare and/or Medicaid?

Answer: \_\_\_\_\_

22. If the answer to the previous question is "yes," is it true that American Health Imaging (Corporate)'s contract with Medicare and/or Medicaid requires that a patient not be held legally responsible for the payment of any portion of the charges for treatment or services not covered by Medicare and/or Medicaid?

Answer: \_\_\_\_\_

23. If the answer to the proceeding question is "no," state all terms of Krystal Michelle Ybarra's insurance coverage of the healthcare expenses reflected on American Health Imaging (Corporate) billing records which allow this facility to bill Krystal Michelle Ybarra for amounts not covered by Medicare/Medicaid.

Answer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

24. What is the amount of charges for treatment or services rendered which have been paid by Medicare and/or Medicaid?

Answer: \_\_\_\_\_

25. What is the current balance, if any, owed on Krystal Michelle Ybarra's bill for the specified period of time requested?

Answer: \_\_\_\_\_

26. What amount, if any, of the said current balance does American Health Imaging (Corporate) continue to seek as payment from Krystal Michelle Ybarra as his/her legal obligation to pay beyond what Medicare/Medicaid, private insurance, or other person or entity has already paid?

Answer: \_\_\_\_\_

27. Please fill in the following blanks with the requested information concerning medical treatment provided to Krystal Michelle Ybarra. NOTE: THE SUM OF THE AMOUNTS GIVEN IN ANSWERS 27B-27G SHOULD EQUAL THE AMOUNT GIVEN IN ANSWER TO 27A.

A. TOTAL AMOUNT FOR ALL MEDICAL BILLED:

Answer: \_\_\_\_\_

B. TOTAL AMOUNT PAID BY PRIVATE INSURER:

Answer: \_\_\_\_\_

C. TOTAL AMOUNT PAID BY MEDICARE/MEDICAID:

Answer: \_\_\_\_\_

D. TOTAL AMOUNT PAID BY PATIENT OR PERSONAL REPRESENTATIVE OR ATTORNEY:

Answer:\_\_\_\_\_

E. TOTAL AMOUNT PAID BY ANY OTHER THIRD PARTY (I.E. WORKER'S COMP CARRIER, ETC.):

Answer:\_\_\_\_\_

F. TOTAL AMOUNT WRITTEN OR CHARGED OFF:

Answer:\_\_\_\_\_

G. TOTAL AMOUNT STILL OWED:

Answer:\_\_\_\_\_

H. BY WHOM IS THE TOTAL AMOUNT OWED:

Answer:\_\_\_\_\_

\_\_\_\_\_  
**WITNESS, CUSTODIAN OF RECORDS**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument in the capacity therein stated, who being first duly sworn, stated upon his/her oath that the answers to the foregoing questions are true and correct.

SWORN TO AND SUBSCRIBED before me this\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:\_\_\_\_\_

Krystal Ybarra vs. Daniel Joseph Schmiessing  
Case No. 2021CI09602

**OBTAIN COPY OF RECORDS**

Once records are obtained, you will have an opportunity to purchase record copies pertaining to **Krystal Michelle Ybarra**. **Please provide an email address to receive records available notifications.**

**Name of person to receive Notifications:** \_\_\_\_\_

**Email address for Record Notification:** \_\_\_\_\_

*Please either type out or print (not cursive)*

With this information, a ChartSwap account will be created for you. You will be sent your ChartSwap credentials via email. Thereafter you will be sent notifications with a link to access the records, view the page counts and record copy fee(s). Electronic, hardcopy and CD options are available. Easily pay for records via a secure on-line portal, powered by ChartSwap, to instantly access records for viewing.

About ChartSwap: Designed to make requesting records simple, easy and secure, ChartSwap offers a single platform for issuing and managing all requests, payments and communication related to the billing and medical records you need. Send, Receive & Pay for EMRs or Paper Medical Records in Minutes. Connect with Any Requestor or Provider Nationwide, Easily & Online. Learn more at [chartswap.com](http://chartswap.com).

**WAIVER OF WAITING PERIOD FOR THE FOLLOWING CUSTODIANS:**

American Health Imaging (Corporate) (Billing Records)

**I received a copy of the Notice and:**

\_\_\_\_\_ I AGREE TO WAIVE THE WAITING PERIOD

\_\_\_\_\_ I DO NOT AGREE TO WAIVE THE WAITING PERIOD

Date: \_\_\_\_\_

Paula Wyatt

Signature: \_\_\_\_\_

Wyatt Law Firm, Ltd.

21 Lynn Batts Ln., Suite 10, San Antonio, TX 78218

Phone # 210-340-5550

\*\*\*\*\*

Please sign and return to:

Ontellus, 910 Louisiana St., Suite 4500, Houston, TX 77002

Tel: (909) 445-8580 / Fax: 800-330-1907 / [secure.copies@Ontellus.com](mailto:secure.copies@Ontellus.com)

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60353237

Status as of 12/29/2021 8:45 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	12/28/2021 9:26:54 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	12/28/2021 9:26:54 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	12/28/2021 9:26:54 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	12/28/2021 9:26:54 PM	SENT
Debbie Uhl		duhl@asdh.com	12/28/2021 9:26:54 PM	SENT
Tonya McCall		TMcCall@asdh.com	12/28/2021 9:26:54 PM	SENT





All deadlines not represented herein will be governed by the Texas Rules of Civil Procedure.

SIGNED and ENTERED this 30 day of November 2021.

  
\_\_\_\_\_  
JUDGE PRESIDING

**AGREED:**

WYATT LAW FIRM, PLLC  
21 Lynn Batts Lane, Ste 100  
San Antonio, Texas 78218  
(210) 340-5550 (Telephone)  
(210) 340-5581 (Facsimile)

NORMA GONZALES  
PRESIDING JUDGE  
131ST JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

  
\_\_\_\_\_  
PAULA A. WYATT  
State Bar No: 10541400  
GAVIN MCINNIS  
State Bar No: 13679800  
LOUIS DURBIN  
State Bar No: 24078448  
E-Service Email: [e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)  
**ATTORNEYS FOR PLAINTIFF**  
**KRYSTAL YBARRA**

ALLEN, STEIN & DURBIN P.C.  
6243 I.H. 10 West, 7<sup>th</sup> Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
(210) 734-7488 (Telephone)  
(210) 738-8036 (Facsimile)

  
\_\_\_\_\_  
JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)  
TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)  
\*Service Email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)  
**ATTORNEYS FOR DEFENDANT**

PRIVATE PROCESS

Case Number: 2021CI09602

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING

IN THE 408th District Court

BEXAR COUNTY, TEXAS

(Note: Attached Document May Contain Additional Litigants.)

## CITATION

"THE STATE OF TEXAS"

Directed To: DANIEL JOSEPH SCHMIESSING

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said **ORIGINAL PETITION** was filed on the **on this the 13th day of May, 2021.**

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS **24th day of May, 2021.**PAULA A WYATT

ATTORNEY FOR PLAINTIFF

21 LYNN BATTS LANE 10  
SAN ANTONIO TX 78218

Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Ana Cortijo

Ana Cortijo, Deputy

KRYSTAL YBARRA VS DANIEL JOSEPH  
SCHMIESSING

## Officer's Return

Case Number: 2021CI09602

Court: 408th District Court

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with the attached ORIGINAL PETITION on the date of delivery endorsed on it to the defendant \_\_\_\_\_, in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_  
\_\_\_\_\_ County, Texas

BY: \_\_\_\_\_  
OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
\_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Declarant

Case Number: 2021CI09602

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING ET AL  
(Note: Attached Document May Contain Additional Litigants)

IN THE 408TH DISTRICT COURT  
BEXAR COUNTY, TEXAS

**CITATION**

"THE STATE OF TEXAS"

Directed To: **PERLA ESMERALDA CASTELLANOS**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said **THIRD-PARTY PETITION** was filed on the **13th day of August, 2021**.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 27th day of August, 2021.

JENNIFER GIBBINS DURBIN  
ATTORNEY FOR PLATINIFF  
6243 W Interstate 10 FL 7  
San Antonio TX 78201-2092



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Jason Pastrano  
Jason Pastrano, Deputy

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING ET AL

Case Number: 2021CI09602  
408th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached THIRD-PARTY PETITION the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas  
BY: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Declarant

Case Number: 2021CI09602

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING  
ET AL  
(Note: Attached Document May Contain Additional  
Litigants)

IN THE 408TH DISTRICT COURT

BEXAR COUNTY, TEXAS

CITATION

"THE STATE OF TEXAS"

Directed To: **STANDARD AERO AVIATION HOLDING INC****BY SERVING ITS REGISTERED AGENT THE CORPORATION TRUST COMPANY CORPORATION TRUST CENTER**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said **PLAINTIFF'S ORIGINAL PETITION** was filed on this the 13th day of May, 2021.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT on this the 10th day of February, 2022.

**PAULA A WYATT**  
**ATTORNEY FOR PLAINTIFF**  
**21 LYNN BATTS LANE STE 10**  
**SAN ANTONIO TX 78218**



**Mary Angie Garcia**  
**Bexar County District Clerk**  
**101 W. Nueva, Suite 217**

**San Antonio, Texas 78205**  
**By: /s/ Janel Gutierrez**  
**Janel Gutierrez, Deputy**

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING ET AL

Case Number: 2021CI09602  
408th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached PLAINTIFF'S ORIGINAL PETITION the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas

BY: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

**NOTARY PUBLIC, STATE OF TEXAS**

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

\_\_\_\_\_  
**Declarant**

CAUSE NO. 2021CI09602

KRYSTAL YBARRA,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	408 <sup>th</sup> JUDICIAL DISTRICT
DANIEL JOSEPH SCHMIESING and	§	
STANDARDAERO AVIATION HOLDINGS,	§	
INC,	§	
	§	
<i>Defendants.</i>	§	BEXAR COUNTY, TEXAS

---

**PLAINTIFF’S AMENDED ORIGINAL PETITION**

---

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Krystal Ybarra, files this Plaintiff’s Amended Original Petition complaining of Defendants, Daniel Joseph Schmiesing, previously incorrectly named as Joseph Daniel Schmiessing, and StandardAero Aviation Holdings, Inc.

**I. DISCOVERY**

1. Plaintiff intends to conduct discovery in this suit under Level Three, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, and will seek an order, agreed or otherwise, to this effect.

**II. PARTIES**

2. **Plaintiff.** Krystal Ybarra (“Plaintiff”) is a natural person and at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Bexar County, Texas.

3. **Defendant.** Daniel Joseph Schmiesing, previously incorrectly named as Daniel Joseph Schmiessing, (“Schmiesing”) is a natural person and at all times relevant to this cause has been and continues to be a resident of Knoxville, Tennessee. Defendant Schmiesing has appeared herein and may be served through his counsel of record.

4. **Defendant.** StandardAero Aviation Holdings, Inc. (“StandardAero”) is a Delaware Corporation doing business in the State of Texas. Defendant may be served with citation via private process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.

### **III. VENUE**

5. Venue is proper in Bexar County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) in that all or substantially all of the events or acts or omissions giving rise to the claim occurred in Bexar County, Texas.

### **IV. FACTS**

6. On May 22, 2020, Plaintiff was traveling as a passenger in a 2008 Honda Fit in the southbound lane stopped at a red light on Bowie Street in San Antonio, Bexar County, Texas. Defendant was driving a 2019 Ford Explorer, traveling east on Houston Street in San Antonio, Bexar County, Texas. As Plaintiff proceeded through the green light, Defendant disregarded the red signal light and in doing so failed to yield the right-of-way, and suddenly crashed into the vehicle in which Plaintiff was traveling. As a result of the collision and Defendants’ negligence, Plaintiff suffered severe and debilitating injuries.

### **V. AGENCY AND RESPONDEAT SUPERIOR**

7. At the time of the collision and the occurrence giving rise to this cause of action, Defendant Schmiesing was an employee of Defendant StandardAero.

8. At all times material hereto, Defendant Schmiesing was acting as an employee of Defendant StandardAero and was within the course and scope of his employment or official duties for Defendant StandardAero and was acting in furtherance of the duties of his office or employment for Defendant StandardAero.

9. Moreover, at the time of the collision made the basis of this litigation Defendant



Schmiesing was a permissive user of the Defendant vehicle.

10. Defendant StandardAero, as the employer, is responsible for the negligent acts or omissions of Defendant Schmiesing under the principles of respondeat superior.

## **VI. NEGLIGENCE**

11. Plaintiff would show that, on the occasion in question, Defendants owed a duty to conduct themselves in a manner consistent with the traffic laws of the State of Texas and to act as a reasonably prudent person and/or entity would act.

12. Defendant Schmiesing breached his duty to Plaintiff and acted in a manner that was negligent by engaging in wrongful conduct including, but not limited to:

- a. Failing to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- b. Failing to control his vehicle as necessary to avoid the collision complained of;
- c. Failing to stop and grant immediate use of an intersection in obedience to an official traffic control device;
- d. Failing to yield to the right of way;
- e. Failing to pay attention in his driving as a person using ordinary prudent care would have done; and
- f. Failing to take reasonable evasive action to avoid colliding with Plaintiff's vehicle.

13. Defendant StandardAero had a duty to exercise ordinary care to hire, train, qualify, and supervise Defendant Schmiesing with respect to ensuring that he was and would continue to be a safe driver with knowledge of the matters necessary for the proper operation of the vehicle that he controlled.

14. Defendant StandardAero breached its duty because it knew or should have known that Defendant Schmiesing was not a capable, qualified, or knowledgeable driver.

15. Defendant breached its duty because it failed to provide the necessary training for Defendant Schmiesing to operate his vehicle in a safe manner and in conformity with the requirements of the law.

16. Defendant StandardAero breached its duty because it failed to supervise Defendant Schmiesing to ensure that he operated his vehicle in a safe manner and could accomplish his work assignments in a safe manner.

17. Defendants' acts and omissions constituted negligence that proximately and substantially caused the occurrence made the basis of this action, and the personal injuries and damages sustained by Plaintiff.

18. Plaintiff would show that, as a proximate result of Defendants' negligence, as described herein, Plaintiff has sustained damages far in excess of the minimum jurisdictional limits of this Court.

## **VII. DAMAGES**

19. As a direct and proximate result of Defendants' negligence, Plaintiff suffered severe personal injuries, pain, suffering, mental anguish, disability, and impairment. Plaintiff also incurred reasonable and necessary medical expenses for the care and relief of her injuries.

20. For a long time to come, if not for the rest of her life, Plaintiff will continue to suffer physical injuries, physical impairment, disfigurement, pain and suffering, and mental anguish. Additionally, as a result of the incident, Plaintiff will incur reasonable and necessary medical expenses in the future. Plaintiff now sues for all of these damages in an amount within the jurisdictional limits of the court.

21. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff asserts that she is seeking monetary relief over \$250,000 but not more than \$1,000,000.

22. Plaintiff is entitled to recover pre-judgment and post-judgment interest as allowed by law.

### **VIII. CONDITIONS PRECEDENT**

23. All conditions precedent have been performed or have occurred to support Plaintiff's pleadings and causes of action.

### **IX. REQUEST FOR JURY TRIAL**

24. Plaintiff respectfully requests a trial by jury and has paid the jury fee.

**WHEREFORE**, Plaintiff requests that the Defendants be cited to appear and answer herein and that on final trial, Plaintiff has judgment against Defendants for:

- a. All medical expenses in the past and future;
- b. Mental anguish in the past and future;
- c. Physical pain in the past and future;
- d. Physical impairment in the past and future;
- e. Prejudgment and post judgment interest as allowed by law;
- f. Costs of suit; and
- g. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**WYATT LAW FIRM, PLLC.**

21 Lynn Batts Lane, Ste. 10

San Antonio, Texas 78218

Telephone: (210) 340-5550

Facsimile: (210) 340-5581

E-Service: [e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)\*

By: /s/ Paula A. Wyatt

Paula A. Wyatt

State Bar No. 10541400

Gavin McInnis

State Bar No. 13679800

Louis Durbin

State Bar No. 24078448

**ATTORNEYS FOR PLAINTIFF**

\*Service by email will be accepted at this address only

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing responses were served to the following on this 27<sup>th</sup> day of January 2022.

**Via E-Serve:**

ALLEN, STEIN & DURBIN, P.C.

Jennifer Gibbins Durbin

[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

Tammy Bruch Click

[tclick@asdh.com](mailto:tclick@asdh.com)

6243 IH 10 West, 7<sup>th</sup> Floor

P.O. Box 101507

San Antonio, TX 78201

(210) 734-7488 (phone)

(210) 738-8036 (fax)

**ATTORNEYS FOR DEFENDANT SCHMIESING**

/s/ Paula A. Wyatt

Paula A. Wyatt

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Paul Myers on behalf of Paula Wyatt  
 Bar No. 10541400  
 pmyers@wyattlawfirm.com  
 Envelope ID: 61350377  
 Status as of 2/7/2022 9:04 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	2/1/2022 2:07:55 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	2/1/2022 2:07:55 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	2/1/2022 2:07:55 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	2/1/2022 2:07:55 PM	SENT
Debbie Uhl		duhl@asdh.com	2/1/2022 2:07:55 PM	SENT
Tonya McCall		TMcCall@asdh.com	2/1/2022 2:07:55 PM	SENT

CAUSE NO. \_\_\_\_\_

KRYSTAL YBARRA,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	Bexar County - 408th District Court
v.	§	____ JUDICIAL DISTRICT
	§	
DANIEL JOSEPH SCHMIESSING,	§	
	§	
<i>Defendant.</i>	§	BEXAR COUNTY, TEXAS

---

PLAINTIFF’S ORIGINAL PETITION

---

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Krystal Ybarra, files this Plaintiff’s Original Petition complaining of Defendant, Daniel Joseph Schmiessing.

I. DISCOVERY

1. Plaintiff intends to conduct discovery in this suit under Level Three, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, and will seek an order, agreed or otherwise, to this effect.

II. PARTIES

2. **Plaintiff.** Krystal Ybarra (“Plaintiff”) is a natural person and at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Bexar County, Texas.

3. **Defendant.** Daniel Joseph Schmiessing (“Defendant”) is a natural person and at all times relevant to this cause has been and continues to be a resident of Knoxville, Tennessee. Defendant may be served with citation via private process at his residence, 4347 Atchley Hill Way, Knoxville, Tennessee 37920, or wherever he may be found.

### **III. VENUE**

4. Venue is proper in Bexar County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) in that all or substantially all of the events or acts or omissions giving rise to the claim occurred in Bexar County, Texas.

### **IV. FACTS**

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### **V. NEGLIGENCE**

6. Plaintiff would show that, on the occasion in question, Defendant owed a duty to conduct himself in a manner consistent with the traffic laws of the State of Texas and to act as a reasonably prudent person and/or entity would act.

7. Defendant breached his duty to Plaintiff and acted in a manner that was negligent by engaging in wrongful conduct including, but not limited to:

- a. Failing to keep such a proper lookout as a person exercising ordinary prudence would have kept under the same or similar circumstances;
- b. Failing to maintain a clear and reasonable distance between Defendant's vehicle and Plaintiff's vehicle;
- c. Failing to control his speed;
- d. Failing to take timely or proper evasive action to avoid the collision in question;
- e. Failing to pay attention; and



f. Failing to control the subject vehicle so that a collision would not occur.

8. Defendant's acts and omissions constituted negligence that proximately and substantially caused the occurrence made the basis of this action, and the personal injuries and damages sustained by Plaintiff.

9. Plaintiff would show that, as a proximate result of Defendant's negligence, as described herein, Plaintiff has sustained damages far in excess of the minimum jurisdictional limits of this Court.

## **VI. DAMAGES**

10. As a direct and proximate result of Defendant's negligence, Plaintiff suffered severe personal injuries, pain, suffering, mental anguish, disability, and impairment. Plaintiff also incurred reasonable and necessary medical expenses for the care and relief of her injuries.

11. For a long time to come, if not for the rest of her life, Plaintiff will continue to suffer physical injuries, physical impairment, disfigurement, pain and suffering, and mental anguish. Additionally, as a result of the incident, Plaintiff will incur reasonable and necessary medical expenses in the future. Plaintiff now sues for all of these damages in an amount within the jurisdictional limits of the court.

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**VIII. REQUEST FOR JURY TRIAL**

15. Plaintiff respectfully requests a trial by jury and has paid the jury fee.

**WHEREFORE**, Plaintiff requests that the Defendant be cited to appear and answer herein and that on final trial, Plaintiff has judgment against Defendant for:

- a. All medical expenses in the past and future;
- b. Mental anguish in the past and future;
- c. Physical pain in the past and future;
- d. Physical impairment in the past and future;
- e. Prejudgment and post judgment interest as allowed by law;
- f. Costs of suit; and
- g. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**WYATT LAW FIRM, PLLC.**

21 Lynn Batts Lane, Ste. 10

San Antonio, Texas 78218

Telephone: (210) 340-5550

Facsimile: (210) 340-5581

E-Service: [e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)\*

By:           /s/ Paula A. Wyatt          

Paula A. Wyatt

State Bar No. 10541400

Gavin McInnis

State Bar No. 13679800

Louis Durbin

State Bar No. 24078448

**ATTORNEYS FOR PLAINTIFF**

\*service by email will be accepted at this address  
only



2021C109602  
Cause Number: \_\_\_\_\_  
Bexar County - 408th District Court  
District Court : \_\_\_\_\_

**Mary Angie Garcia  
Bexar County District Clerk**

**Request for Process**

**CIT PPS**

Style: \_\_\_\_\_ Vs. \_\_\_\_\_

Request the following process: (Please check all that Apply)

☐ Citation ☐ Notice ☐ Temporary Restraining Order ☐ Notice of Temporary Protective Order  
☐ Temporary Protective Order ☐ Precept with hearing ☐ Precept without a hearing ☐ Writ of Attachment  
☐ Writ of Habeas Corpus ☐ Writ of Garnishment ☐ Writ of Sequestration ☐ Capias ☐ Other: \_\_\_\_\_

1.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Commissioner of Insurance

2.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Commissioner of Insurance

3.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Commissioner of Insurance

4.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Commissioner of Insurance

Title of Document/Pleading to be Attached to Process: \_\_\_\_\_

Name of Attorney/Pro se: \_\_\_\_\_ Bar Number: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Attorney for Plaintiff \_\_\_\_\_ Defendant \_\_\_\_\_ Other \_\_\_\_\_

\*\*\*IF SERVICE IS NOT PICKED UP WITHIN 14 BUSINESS DAYS, SERVICE WILL BE DESTROYED\*\*\*



Cause Number: \_\_\_\_\_

District Court : \_\_\_\_\_

**Mary Angie Garcia**  
**Bexar County District Clerk**

citpps

**Request for Process**

Style: \_\_\_\_\_ Vs. \_\_\_\_\_

Request the following process: (Please check all that Apply)

☐ Citation ☐ Notice ☐ Temporary Restraining Order ☐ Notice of Temporary Protective Order  
☐ Temporary Protective Order ☐ Precept with hearing ☐ Precept without a hearing ☐ Writ of Attachment  
☐ Writ of Habeas Corpus ☐ Writ of Garnishment ☐ Writ of Sequestration ☐ Capias ☐ Other: \_\_\_\_\_

1.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
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Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

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Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
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Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Publication (Check One) ☐ Commercial Recorder ☐ Hart Beat ☐ Courthouse Door  
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Title of Document/Pleading to be Attached to Process: \_\_\_\_\_

Name of Attorney/Pro se: \_\_\_\_\_ Bar Number: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Attorney for Plaintiff \_\_\_\_\_ Defendant \_\_\_\_\_ Other \_\_\_\_\_

\*\*\*IF SERVICE IS NOT PICKED UP WITHIN 14 BUSINESS DAYS, SERVICE WILL BE DESTROYED\*\*\*

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Paul Myers on behalf of Paula Wyatt  
 Bar No. 10541400  
 pmyers@wyattlawfirm.com  
 Envelope ID: 61350377  
 Status as of 2/7/2022 9:04 AM CST

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	2/1/2022 2:07:55 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	2/1/2022 2:07:55 PM	SENT

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	2/1/2022 2:07:55 PM	SENT
Debbie Uhl		duhl@asdh.com	2/1/2022 2:07:55 PM	SENT
Tonya McCall		TMcCall@asdh.com	2/1/2022 2:07:55 PM	SENT

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	2/1/2022 2:07:55 PM	SENT

ENT

PRIVATE PROCESS

Case Number: 2021CI09602

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING ET AL  
(Note: Attached Document May Contain Additional Litigants)

IN THE 408TH DISTRICT COURT  
BEXAR COUNTY, TEXAS

**CITATION**

"THE STATE OF TEXAS"

Directed To: **PERLA ESMERALDA CASTELLANOS**

ACCEPTED BY:

9-22-2021 @ 6:47 AM (N)

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said **THIRD-PARTY PETITION** was filed on the 13th day of August, 2021.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 27th day of August, 2021.

JENNIFER GIBBINS DURBIN  
ATTORNEY FOR PLATINIFF  
6243 W Interstate 10 FL 7  
San Antonio TX 78201-2092



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ **Jason Pastrano**  
Jason Pastrano, Deputy

KRYSTAL YBARRA VS DANIEL JOSEPH SCHMIESSING ET AL

Case Number: 2021CI09602  
408th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached THIRD-PARTY PETITION the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas

OR: VERIFICATION OF RETURN (if not served by a peace officer) SWORN TO THIS:

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Declarant

2021 SEP 23 P 3:34  
JANIS G. GLENN  
CLERK  
BEXAR COUNTY, TEXAS



CAUSE NO. 2021-CI-09602

KRYSTAL YBARRA

Plaintiff,

VS.

DANIEL JOSEPH SCHMIESSING ET AL

Defendant.

§  
§  
§  
§  
§  
§

IN THE 408TH DISTRICT COURT

BEXAR COUNTY, TEXAS

AFFIDAVIT OF SERVICE

On this day personally appeared Richard D. Ramos who, being by me duly sworn, deposed and said:

"The following came to hand on September 8, 2021, 11:35 am,

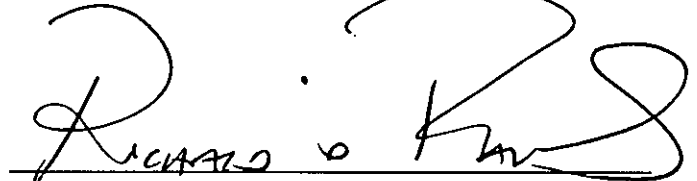
CITATION AND DEFENDANT'S THIRD-PARTY PETITION,

and was executed at 6222 S NEW BRAUNFELS AVE 8301, SAN ANTONIO, TX 78223-3008 within the county of BEXAR at 06:47 PM on September 22 2021, by delivering a true copy to the within named

PERLA ESMERALDA CASTELLANOS

in person, having first endorsed the date of delivery on same.

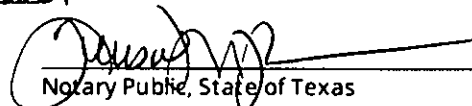
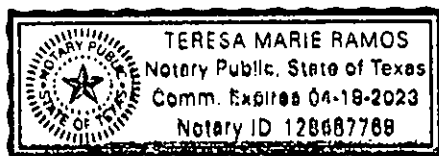
I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."



Richard D. Ramos  
Certification Number: PSC# 2051  
Certification Expiration: 04/30/2022  
Bexar County, Texas

BEFORE ME, a Notary Public, on this day personally appeared Richard D. Ramos, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON Sept. 22, 2021

  
Notary Public, State of Texas



**CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing **Defendant Daniel Joseph Schmiesing's Certificate of Written Discovery** was on this the 16th day of August 2021, forwarded via e-service to:

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

**Attorneys for Plaintiff**

  
\_\_\_\_\_  
JENNIFER GIBBINS DURBIN  
TAMMY BRUCH CLICK

#2151146/2331-388/TBC/lb

**Automated Certificate of eService**

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Linda Beall on behalf of Jennifer Durbin  
 Bar No. 07840500  
 lbeall@asdh.com  
 Envelope ID: 56358393  
 Status as of 8/17/2021 3:29 PM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	8/16/2021 5:31:06 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	8/16/2021 5:31:06 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	8/16/2021 5:31:06 PM	SENT

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**CAUSE NO. 2021CI09602**

KRYSTAL YBARRA  
*Plaintiff*

VS.

DANIEL JOSEPH SCHMIESING  
*Defendant*

IN THE DISTRICT COURT

408TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**DEFENDANT DANIEL JOSEPH SCHMIESING'S**  
**CERTIFICATE OF WRITTEN DISCOVERY**

Defendant Daniel Joseph Schmiesing certifies that the following document has been served on Plaintiff Krystal Ybarra.

1. Defendant Daniel Joseph Schmiesing's Company's TRCP 194.2(b) [and (c)] Initial Disclosures.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C  
6243 IH 10 West, 7th Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
Telephone No. (210) 734-7488  
Telecopier No. (210) 738-8036

  
JENNIFER GIBBINS DURBIN  
State Bar No. 07840500  
[jdurbin@asdh.com](mailto:jdurbin@asdh.com)

TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

***\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)***

**ATTORNEYS FOR DEFENDANT  
DANIEL JOSEPH SCHMIESING**

**CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing **Defendant Daniel Joseph Schmiesing's Certificate of Written Discovery** was on this the 13th day of August 2021, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218

**Attorneys for Plaintiff**

  
\_\_\_\_\_  
JENNIFER GIBBINS DURBIN  
TAMMY BRUCH CLICK

#2150380/2331-388/TBC/lb

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Linda Beall on behalf of Jennifer Durbin  
 Bar No. 07840500  
 lbeall@asdh.com  
 Envelope ID: 56298430  
 Status as of 8/16/2021 10:07 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	8/13/2021 2:31:31 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	8/13/2021 2:31:31 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	8/13/2021 2:31:31 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Debbie Uhl		duhl@asdh.com	8/13/2021 2:31:31 PM	SENT
Tonya McCall		TMcCall@asdh.com	8/13/2021 2:31:31 PM	SENT
Jennifer G.Durbin		jdurbin@asdh.com	8/13/2021 2:31:31 PM	SENT





the sole cause or in the alternative a proximate cause of KRYSTAL YBARRA's claimed injuries and damages. Additionally, Third-Party Defendant, PERLA ESMERALDA CASTELLANOS was negligent in the operation of her motor vehicle in that she failed to keep a proper lookout; failed to maintain a clear and reasonable distance between her vehicle and the motor vehicle driven by Third Party Plaintiff; failed to stop her vehicle in observance of a signal light; failed to pay proper attention; failed to control the speed of her car; and failed to take timely or proper evasive action to avoid the collision in question. The negligence of Third-Party Defendant, PERLA ESMERALDA CASTELLANOS, an unlicensed driver, is the sole cause, or a proximate cause of Plaintiff's claimed injuries and damages.

### III.

Third Party Plaintiff, DANIEL JOSEPH SCHMIESING hereby sues Third Party Defendant, PERLA ESMERALDA CASTELLANOS seeking contribution pursuant to Chapter 33, Texas Civil Practice and Remedies Code. By reason of Third Party Defendant's violation of statute, and negligence as set forth more fully above, Third Party Defendant is liable to Third Party Plaintiff for contribution, or in the alternative, indemnity as to any judgment which may be rendered against Third Party Plaintiff, DANIEL JOSEPH SCHMIESING in favor of the Plaintiff as Third Party Defendant is or maybe be liable to the Plaintiff directly for all or part of the Plaintiff's claims now being made by said Plaintiff against Defendant/ Third Party Plaintiff, DANIEL JOSEPH SCHMIESING.

WHEREFORE, PREMISES CONSIDERED, Third Party Plaintiff, DANIEL JOSEPH SCHMIESING, prays that Third Party Defendant, PERLA ESMERALDA

CASTELLANOS be commanded to appear and answer herein and that Defendant/Third Party Plaintiff have judgment against Third Party Defendant, PERLA ESMERALDA CASTELLANOS as to any award of damages by Plaintiff. Defendant/Third Party Plaintiff also requests any other relief to which Defendant/Third Party Plaintiff, DANIEL JOSEPH SCHMIESING, may show himself justly entitled, whether at law or in equity.

Respectfully submitted,

ALLEN, STEIN & DURBIN, P.C  
6243 IH 10 West, 7th Floor  
P.O. Box 101507  
San Antonio, Texas 78201  
Telephone No. (210) 734-7488  
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TAMMY BRUCH CLICK  
State Bar No. 03239300  
[tclick@asdh.com](mailto:tclick@asdh.com)

***\*service email: [jgd-service@asdh.com](mailto:jgd-service@asdh.com)***

**ATTORNEYS FOR DEFENDANT/THIRD  
PARTY PLAINTIFF, DANIEL JOSEPH  
SCHMIESING, INCORRECTLY NAMED  
DANIEL JOSEPH SCHMIESSING**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing DEFENDANT'S THIRD-PARTY PETITION was this the 13<sup>th</sup> day of August 2021, forwarded via e-service to:

e-serve@wyattlawfirm.com

Paula A. Wyatt

Gavin McInnis

Louis Durbin

WYATT LAW FIRM, PLLC

21 Lynn Batts Lane, Ste 10

San Antonio, Texas 78218



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JENNIFER GIBBINS DURBIN  
TAMMY BRUCH CLICK

#2150575/2331 388/TBC

**Automated Certificate of eService**

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Linda Beall on behalf of Jennifer Durbin  
 Bar No. 07840500  
 lbeall@asdh.com  
 Envelope ID: 56304775  
 Status as of 8/16/2021 11:48 AM CST

Associated Case Party: KRYSTAL YBARRA

Name	BarNumber	Email	TimestampSubmitted	Status
Paula James Wyatt	10541400	e-serve@wyattlawfirm.com	8/13/2021 3:53:49 PM	SENT

Associated Case Party: DANIELJOSEPHSCHMIESSING

Name	BarNumber	Email	TimestampSubmitted	Status
Tammy Click		tclick@asdh.com	8/13/2021 3:53:49 PM	SENT
Jennifer GibbinsDurbin		jgd-service@asdh.com	8/13/2021 3:53:49 PM	SENT

### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer G.Durbin		jdurbin@asdh.com	8/13/2021 3:53:49 PM	SENT
Debbie Uhl		duhl@asdh.com	8/13/2021 3:53:49 PM	SENT
Tonya McCall		TMcCall@asdh.com	8/13/2021 3:53:49 PM	SENT